Vol. 808
No. 161

Monday
14 December 2020

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 following abbreviations are used to show a Member's party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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

House of Lords

Monday 14 December 2020

The House met in a hybrid proceeding.

1 pm

Prayers—read by the Lord Bishop of Salisbury via video call.

Arrangement of Business

Announcement

1.07 pm

The Lord Speaker (Lord Fowler): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber while others are participating remotely, but all Members will be treated equally.

Royal Assent

1.07 pm

The following Acts were given Royal Assent:

Private International Law (Implementation of Agreements) Act 2020,

Parliamentary Constituencies Act 2020.

Arrangement of Business

Announcement

1.08 pm

The Lord Speaker (Lord Fowler): My Lords, Oral Questions will now commence. I ask those asking supplementaries to keep them short and confined to two points, and I ask for Ministers' answers also to be brief.

Climate Change

Question

1.08 pm

Asked by ***Lord Browne of Ladyton***

To ask Her Majesty's Government what assessment they have made of the work of the Committee on Climate Change.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the role of the climate change committee in providing independent expert advice to government is widely accepted as global best practice. Following the committee's advice, in June 2019 the Government set a target to achieve net zero by 2050. We are very grateful for the committee's recently published advice on the sixth carbon budget, which we will of course consider carefully ahead of setting it in legislation next year, as required by the Climate Change Act.

Lord Browne of Ladyton (Lab) [V]: My Lords, the Prime Minister's commitment to reduce carbon emissions from 57% of 1990 levels to 32% by 2030 is the same as the target set out in the committee's *Sixth Carbon Budget* report. To deliver it requires a centrally led, comprehensive strategy and timetable for the current Parliament—preferably one that accepts that it can be delivered in 10 years only with decarbonisation technologies already at maturity. Do the Government have such a strategy? Will it be published? And will the Government find time to debate the reports of the Committee on Climate Change?

Lord Callanan (Con): Whether time will be allowed is of course not a matter for me, but I will pass that on to the Chief Whip. Strategies, or elements of them, are being published today in the energy White Paper. A hydrogen strategy and a heat and building decarbonisation strategy are to come, so we are conscious of our responsibilities in this regard.

The Lord Bishop of Salisbury [V]: My Lords, the Government have made a number of statements, which, with the 10-point plan and the upping of the nationally defined contributions to the Paris Agreement, are very welcome. The Government's manifesto commits to planting 30,000 hectares of trees per year. That is a really key target to aim for in relation to the climate change committee's report, but it is one that we have missed by 71% in the last year and consistently over previous years. I much admire the Prime Minister's ambition, but how are the Government to ensure that performance exceeds or matches that ambition?

Lord Callanan (Con): The right reverend Prelate is of course correct to point out that meeting these commitments will be a difficult, long-term task. It will require commitment from government and also from Parliament, local government and other stakeholders, but it is a challenge that we are rising to.

Lord Cormack (Con) [V]: My Lords, how many meetings do my noble friend and his ministerial colleagues have with the chairman and members of the climate change committee? Is the committee monitoring trade agreements to ensure their compliance with climate change obligations?

Lord Callanan (Con): I met the chief executive of the committee only about two or three weeks ago. I am not aware of any comments or otherwise that the committee has made on trade agreements.

Baroness Lane-Fox of Soho (CB) [V]: I declare my interest as a director of Peers for the Planet. Nearly half the recommendations made by the climate change committee require some kind of behaviour change by the general public, yet a recent BEIS survey showed that only 5% of people understand in detail what net zero even means. What concrete plans do the Government have to urgently educate citizens about actions that they should take in order to reach government targets?

Lord Callanan (Con): The noble Baroness is of course correct to highlight the importance of behavioural change. Getting to net zero will require action from everyone—as I said earlier, people, businesses and governments—across the whole of the UK. It is vital to engage the public in this debate on the challenge, and we intend to do that in the run-up to COP 26 later next year.

Baroness Sheehan (LD): My Lords, I welcome the fact that the Government are ending support for fossil-fuel projects in developing countries, but here at home the Oil and Gas Authority's remit remains to extract every last drop through its "maximising economic revenue" policy. Does the Minister agree that this is incompatible with the Climate Change Act and our leadership of COP 26 next year? Will he and the Government support my Private Member's Bill, the Petroleum (Amendment) Bill, which seeks to rectify this?

Lord Callanan (Con): No, I do not agree with the noble Baroness. The oil and gas industry employs tens if not hundreds of thousands of people. It recognises the challenge, and the Government need to work with that to help it in the transition.

Lord Grantchester (Lab): Given the Committee on Climate Change's recommended target of a 78% emissions cut by 2035 in its report on the sixth carbon budget, can the Minister confirm whether the Government will now raise their national determined contribution commitment to COP 26 policies to align with that?

Lord Callanan (Con): I admire the noble Lord's ambitions but we only announced the NDC two weeks ago, so we are not about to revise it already.

Baroness Boycott (CB): My Lords, I want to follow up the question from the noble Baroness, Lady Lane-Fox, about behaviour change. The CCC said that the majority of the things we have to do are going to require buy-in from the public. The Minister has said to me previously that the Cabinet Office had set up a dedicated engagement team for COP 26 but I have not yet seen anything about any actions by it apart from a general endorsement for businesses to race towards zero. That is very good, but what about the public? Will the Minister update the House on the progress of this team? I am sure the noble Baroness, Lady Lane-Fox, and I would be delighted to meet him if there is more information that he could give us on its progress.

Lord Callanan (Con): I am pleased that the noble Baroness recognises the importance of public engagement, and I totally agree with her. Obviously we have been in the middle of a global pandemic so it has been very difficult for the engagement team to do its job properly in terms of engaging with the public, but she can rely on the fact that we have some ambitious plans to engage with the public before COP next year.

Lord Bourne of Aberystwyth (Con) [V]: My Lords, heat pumps, offshore wind and installing installation at scale are all recommendations from the Committee on Climate Change, which does excellent work. These will help to create jobs and apprenticeships as well as helping us to get to net zero. The Government have certainly adopted this agenda but now they need to consider a serious step change in order to pursue it. Will my noble friend pursue these policies with even more vigour?

Lord Callanan (Con): My noble friend makes a very good point; we will indeed. We already have the largest offshore wind capacity in the world, I think—certainly in Europe. We are world leaders in that technology and the costs have fallen massively. We will be conducting another contracts for difference auction shortly, and I think we will see even more ambitious progress. The targets have been set out and the money provided, and we are well on the way to meeting them.

Baroness Burt of Solihull (LD) [V]: My Lords, the Committee on Climate Change must be congratulated on producing a detailed achievable road map to net zero by 2050. It is now up to the Government to put in place the right policies to give investor confidence to the private sector and get the money flowing. When will the Government deliver the investment road map?

Lord Callanan (Con): We only received the report from the committee a few days ago and we will be studying it carefully. We are providing lots of investment in this area. We have the Prime Minister's 10-point plan, delivering something like £12 billion of public investment and hopefully leveraging three times as much private money. We have investments in the green homes grant and a number of other schemes, so we recognise the challenge. As I am sure the noble Baroness will recognise, public finances are quite tight at the moment, but I think we have an excellent record of providing the money to meet our ambitions.

The Lord Speaker (Lord Fowler): My Lords, all supplementary questions have been asked.

Repair and Reuse Programmes

Question

1.18 pm

Asked by ***Lord Harries of Pentregarth***

To ask Her Majesty's Government what assessment they have made of the operation of repair and reuse programmes in (1) Scotland, and (2) Wales; and what steps they have taken to introduce similar such programmes in England.

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con) [V]: My Lords, our resources and waste strategy for England outlines actions on reuse and repair. It will be supplemented by a new waste prevention programme to be published for consultation early next year. My department liaises regularly with the devolved Administrations on resources and waste policy. For example, in our landmark Environment Bill we are seeking powers related to making products easier to reuse, repair and recycle, which will be available to all four nations.

Lord Harries of Pentregarth (CB) [V]: As the Minister is aware, Scotland is very committed in this sphere. Something like 88,000 tonnes of material have gone to repair and reuse. It is good for employment as 6,000 people are employed, and it is good for the economy in Scotland, with something like £244 million going into it. I am not convinced that England is assigning it the same priority as Scotland and Wales. Would the Government be willing to commission a feasibility study to see what might be possible by way of repair and reuse in England?

Lord Goldsmith of Richmond Park (Con) [V]: I disagree with the noble and right reverend Lord's suggestion that the Government are not taking this issue as seriously as they should. We have made huge progress in the last few months alone. The time I have does not allow me to list all that progress but, in addition to the environmental benefits of repair and reuse, it is worth adding that reusing and repairing also saves people money, with the reuse sector estimated to have saved low-income households over £468 million in 2019. Growing the reuse and repair sector can support the revival of high streets and the levelling up of our towns and cities by providing high-quality jobs across the country. It is a priority for this Government.

Lord Reid of Cardowan (Lab): My Lords, I thank the Minister, but it is now more than a decade since Scotland first introduced the Zero Waste Plan. There are reuse programmes in England, often run by local partnerships, including councils. However, at least up to this point, their size and scope varies and, crucially, they are not adequately supported by the Government. Are the Government reviewing the Scottish experience and, if so, what lessons does the Minister believe have been learned from it?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, we work very closely with all the devolved Administrations and are permanently looking for ways to improve our approach to tackling waste issues. I point the noble Lord to the Environment Bill, which will shortly be coming to this House. It includes clauses that will enable us to introduce secondary legislation on product design; for example, to support durable, repairable, recyclable products. It will also enable us to introduce extended producer-responsibility schemes for a whole range of products, which will also encourage manufacturers to ensure that the products they make are designed to be recycled, reused or repaired.

Baroness Parminter (LD) [V]: My Lords, the European Union has committed to establishing a right to repair, guaranteeing consumers the availability of spare parts or access to repair. Will the Government's long-delayed consultation on the waste prevention programme offer English consumers the same?

Lord Goldsmith of Richmond Park (Con) [V]: The new waste prevention programme has been delayed. I simply point to the pandemic, which has delayed much of our progress on this and many other issues; in addition, the date that the waste prevention programme was due for release coincided with the last general election and purdah rules. However, we have developed a new draft waste prevention programme for consultation. It will include a range of measures, including to encourage more reuse and repair. It is due to be launched in the next few months and will reflect a very serious ambition on the part of the Government to move towards a zero-waste or circular economy.

Baroness Gardner of Parkes (Con) [V]: My Lords, the older generation have always repaired and reused. It is good that the younger generation—including my grandchildren, who are now mostly in their 20s—are very keen to repair and reuse as part of their commitment to the environment. The BBC has taught many people how to do things for themselves and make things, sometimes from things that are being reused. Can the Minister assure me that the Government will encourage these activities?

Lord Goldsmith of Richmond Park (Con) [V]: I can certainly give that commitment on behalf of the Government. We are absolutely committed to providing whatever support is necessary to shift gear—to move towards a situation where we no longer live in a throwaway economy and products are designed to be reused, recycled or repaired. There is a whole range of areas where this needs to happen, whether it is microplastic or plastic pollution, single-use coffee cups, construction waste, food waste, fast fashion, or so many other areas besides, each of which is getting the attention that it merits in my department. As I said earlier, our legislative approach to tackling this issue will reflect a very serious ambition to move towards a zero-waste economy.

Lord Singh of Wimbledon (CB) [V]: My Lords, the repair and reuse initiatives in Scotland and Wales are welcome but we are way behind countries such as India, where repair and reuse make an important contribution to the economy. Will the Minister consider adapting Scotland's Revolve hubs and introduce other initiatives, such as reducing VAT on products made from recycled materials, in moving us to more responsible living?

Lord Goldsmith of Richmond Park (Con) [V]: One of the prime focuses of the waste strategy—as well as the Environment Bill, which will be coming forward shortly—is to move to a situation where we are not using materials that are not recyclable. We will be using a whole range of tools to achieve that. For example, we are introducing a landmark tax—I think it is a world first—on packaging that does not have at least 30% recycled content. We are introducing extended producer responsibility across a whole range of products which, given that they would have to take on the full cost of disposal, will strongly incentivise producers and manufacturers not to use materials that cannot be recycled. That principle applies right the way through our approach to tackling waste. Waste is increasingly becoming a direct financial liability; as a consequence, manufacturers will be more thoughtful with regard to what they produce and how they produce it.

Baroness Jones of Whitchurch (Lab): My Lords, I want to return the Minister to the right to repair. What action do the Government propose to take in the Environment Bill against companies that deliberately design goods that cannot be repaired even when those repair facilities ought to be available? What specific proposals does the Minister have on that matter?

Lord Goldsmith of Richmond Park (Con) [V]: That is exactly the focus of the work that we are doing. The purpose of the Environment Bill and the overall waste strategy is precisely to tackle "built-in obsolescence"—the problem that products are designed and sold with the view that they can only be thrown away and end up in landfill. As I said, no single policy lever can deliver the change that we need, and a whole ecosystem of changes

[Lord Goldsmith of Richmond Park]
is reflected in the Environment Bill and in our broader waste strategy. Combined, these will have the effect that the noble Baroness is seeking.

Baroness Scott of Needham Market (LD) [V]: Is the noble Lord aware of the amazing work being done by social enterprises in this field? They are not just making a huge contribution to the environment but providing jobs, often to people in very challenged circumstances. Are the Government doing anything to see how that sector can be helped to grow and develop?

Lord Goldsmith of Richmond Park (Con) [V]: That is a very important point. There are examples further afield, for example in Austria, where government subsidises the creation of repair centres, which are specifically designed to employ people defined as difficult to employ; that is something we are looking at. There are so many benefits of shifting towards a reuse, repair, recycle model—with regard not just to the environment or lessening our global environmental footprint but to the economy and job opportunities, often for people who struggle otherwise to secure employment.

Lord Wigley (PC) [V]: My Lords, as one who has until recently, given Covid, spent a large proportion of my time split between London and Wales, the difference in the recycling level at home in Wales as compared to London has been very dramatically brought home to me. Clearly, lessons can be learned in comparing how such operations are undertaken in different places. Given that 20 years has gone by since devolution was set up, might there be a case for a systematic approach to considering the best lessons that can be learned from the devolved regimes to apply in England, and indeed vice versa?

Lord Goldsmith of Richmond Park (Con) [V]: That is absolutely right—there is much that can be learned and much information, advice and ideas that can be exchanged between the various nations. The Welsh Government are often credited with having funded reuse and repair, and rightly so, but we have done this as well. In May last year, the WRAP-administered Resource Action Fund received £18 million from the Government. It was launched to support resource efficiency projects with the goal of diverting, reducing and better managing waste. We will set up further measures to support reuse and repair in the forthcoming waste prevention programme. As I said, our ambition is very high in this regard, as it is in other parts of the United Kingdom.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has regrettably elapsed. We now move to the third Oral Question.

Environmental Land Management Schemes

Question

1.29 pm

Asked by ***Lord Greaves***

To ask Her Majesty's Government what progress they have made on the pilot Environmental Land Management schemes.

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. Plans for the ELM national pilot are progressing at pace. The pilot will build on the excellent work of 72 ongoing tests and trials, covering a wide range of sectors and geographies, including uplands, commons and tenant farmers. The pilot will extend over time. By 2022, it will cover all three components of the environmental land management scheme.

Lord Greaves (LD): My Lords, I refer to the recent document, *The Path to Sustainable Farming: An Agricultural Transition Plan*, which sets out some of the ways in which this is going to be done. It is very welcome, although still very vague and lacking in the detail that farmers and lots of other people want. However, in all the areas—the three tiers of the sustainable farming incentive, local nature recovery and landscape recovery—certain public goods are almost completely absent. Those are the questions of public access and public education, particularly for young people. Will the Minister give a commitment that, in the national pilot that is going to be produced, building on the tests and trials, these matters will be given a prominent position in all three areas of the scheme?

Lord Gardiner of Kimble (Con): My Lords, as we said in consideration of the Agriculture Bill, access will be part of the schemes, and work is under way in those areas. I look forward to working with your Lordships to ensure that there is a rollout of not only the environmental advancements but access where it will have considerable benefits for people.

Lord Colgrain (Con): Can the Minister please confirm that all the information gathered from the ELMS pilot tests and trials will in due course become available to the public? Can he also indicate when sufficient information will become available about eligibility for tree planting under the schemes, given that we are already half way through this planting season?

Lord Gardiner of Kimble (Con): My Lords, on the tree policy, anyone signing up to a grant agreement to plant woodland now will not be unfairly disadvantaged when ELM is introduced. It is very important that we proceed with planting trees. I think my noble friend referred to transparency. Yes, the whole point about the pilot is to be clear about learning which areas work well and which do not. This is so that, when we roll out ELM in 2024, all of these features will mean that it will work satisfactorily and well.

Lord Curry of Kirkharle (CB) [V]: My Lords, as the Minister is aware, many family farms in traditional livestock areas are going to find the transition from the current supported system to the new ELM scheme quite a challenge. Will he confirm that, in the pilots, there will be a specific targeting of livestock farms and that they will explore the challenges that these livestock farmers are likely to face?

Lord Gardiner of Kimble (Con): My Lords, in brief, yes—but in the tests and trials it is very important that, for instance among tenant farmers, 62% were

upland tenant farmers. We are working in areas where there is a very strong livestock farming tradition. We want that to continue, and that is why the tests and trials will be very important as we then move towards a national pilot, which will obviously include livestock farmers.

Baroness Mallalieu (Lab): My Lords, I remind the House of my farming interests, as set out in the register. Since a high level of take-up is crucial to the success of the ELM scheme, will the Minister undertake not to repeat the errors of the countryside stewardship scheme, but make this one simple to join, flexible and, most importantly, with payment rates that are commercially attractive not just to the large-scale arable land manager but to small and medium-sized permanent pasture farms?

Lord Gardiner of Kimble (Con): My Lords, I am a supporter of pastoral farming and can certainly confirm that the work we are doing, particularly the national pilot and the tests and trials, is to ensure that the payments will be fair but also attractive for farmers to take up on a wide participation. Clearly, our environmental goals cannot be achieved unless there is wide participation.

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, the Government are rightly setting great store by the environmental land management scheme to protect and enhance the countryside, and to increase biodiversity. However, the NFU has begun a surreptitious campaign to relicense the use of neonicotinoids on farmland. This tactic is not likely to encourage the public to support the NFU's "Back British Farming" campaign. Does the Minister believe that the NFU campaign is in line with the government's ELMS biodiversity agenda?

Lord Gardiner of Kimble (Con): My Lords, as to any consideration in emergency cases of neonicotinoids, we are always guided by the best scientific assessment available. We will continue to do that and if there was an emergency application, it would be considered according to the science. Obviously, integrated pest management and all those things is another area where advancing the environment is absolutely key.

Baroness Jones of Whitchurch (Lab): My Lords, given that the rollout of the ELMS pilots is happening later than we would wish, can the Minister confirm that any money not spent in one year will be rolled over to the next, so that farmers will not be disadvantaged by any delays?

Lord Gardiner of Kimble (Con): My Lords, the whole purpose of the reductions in direct payments is that they will remain within the agricultural pot. I confirm that any surplus, if there was one, would be part of an agricultural budget.

The Earl of Shrewsbury (Con) [V]: My Lords, I refer noble Lords to my entry in the register. My noble friend will be aware of the excellent work carried out by the Game & Wildlife Conservation Trust over many years and in many areas, advising on land, habitat and a wide range of other matters within the environmental umbrella. Is not that organisation the obvious choice to advise Ministers on the administration, sustainability, development and efficacy of ELMS in the future?

Lord Gardiner of Kimble (Con): My Lords, it is an excellent organisation and I can confirm that it is among a number of bodies engaged in tests and trials.

The Earl of Sandwich (CB) [V]: My Lords, does the Minister agree that some farmers, especially new entrants now receiving direct payments on arable land or pasture, could miss out after 2024? This could be if the land, as he says, is unsuitable for further stewardship, sustainable ELMS improvements or rewilding. Will they have to leave farming or will they, in that case, receive some form of compensation?

Lord Gardiner of Kimble (Con): My Lords, I may need to look at *Hansard* to help the noble Earl. The new entrants' support scheme, which we want to encourage, begins in 2022. The noble Earl may have been talking about retirement lump sums, but I think I had better get back to him as I was not quite sure of his question.

Baroness Young of Old Scone (Lab) [V]: My Lords, what measures will the Government put in place to ensure the environmental standards that farmers receiving payment under the sustainable farming incentive scheme will have to meet will be higher than the standards already obligatory through legislation or cross-compliance, and that the scheme will be properly monitored to make sure that they are delivered? There is a slight feeling developing that there is a risk that the sustainable farming incentive will be watered down to become simply a financial support scheme for farmers—a sort of basic farm payment in disguise.

Lord Gardiner of Kimble (Con): My Lords, I can confirm to the noble Baroness that, while clearly we need to safeguard public money, we also think that the bureaucracy involved in the CAP was not proportionate. We want to work collaboratively with farmers but, clearly, we also want to ensure that there is delivery of the environmental benefits that will and must be engaged by these schemes.

Lord Teverson (LD): My Lords, in a very helpful reply to me on a recent Written Question on ELMS and advisory services, the Minister said that the Government would set up an institute for agriculture and horticulture. I welcome that, but will they locate that institute in Cornwall, which is such an excellent example of horticulture and farming?

Lord Gardiner of Kimble (Con): My Lords, I will take that back to the Secretary of State.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. We now come to the fourth Oral Question.

Green Economic Recovery
Question

1.39 pm

Asked by ***Baroness Ritchie of Downpatrick***

To ask Her Majesty's Government what plans they have to promote a green economic recovery in response to the impact of the COVID-19 pandemic.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, as we rebuild, we must build back greener. Last month, the Prime Minister announced our *Ten Point Plan for a Green Industrial Revolution*, spanning clean energy, buildings, transport, nature and innovative technologies. The plan will mobilise £12 billion of government investment to unlock three times as much private sector investment by 2030, level up regions across the UK, and support up to 90,000 highly skilled green jobs.

Baroness Ritchie of Downpatrick (Non-Afl) [V]: Further to that, could the Minister outline what consideration the Government have given to the incorporation of a national retrofit strategy as a key infrastructure priority and a core element of their industrial strategy?

Lord Callanan (Con): The Government will publish a heat and buildings strategy in the coming months; this will set out the immediate actions that we will take to reduce emissions from buildings, including deploying energy-efficiency measures and transitioning to low-carbon heating.

Baroness Clark of Kilwinning (Lab): Does the Minister agree that, as we come out of the pandemic, there is a real risk that we will revert to the kinds of economic practices that created the climate crisis in the first place? No economic conditions of an environmental nature seem to have been placed on the money that has been put into the economy during the pandemic, so can he give an assurance that as we approach the COP 26 climate talks in Glasgow next year we will look seriously at how we both address the economic inequalities that have been exposed by this crisis and create a green economy? Does he agree with me that that will require significant shifts in both government policy and investment strategy?

Lord Callanan (Con): The noble Baroness makes some important points, but, of course, all of the 10-point plan was exactly about building a UK that is greener, more prosperous and at the forefront of industries for the future.

Lord Dodds of Duncairn (DUP) [V]: The energy White Paper published today talks about kick-starting the hydrogen economy. I warmly welcome this commitment. How will the Government ensure fair access across all parts of the United Kingdom to the net zero hydrogen fund and the other funding streams, not least research and development?

Lord Callanan (Con): The noble Lord is quite right to point out the importance of low-carbon hydrogen, and, working with industry, we are aiming for 5 gigawatts of low-carbon hydrogen production capacity by 2030. We will try to ensure that all parts of the United Kingdom can benefit.

Lord Sheikh (Con) [V]: My Lords, I declare an interest, as I am the co-chair of the APPG on Islamic Finance. Islamic finance can play a role in the green industrial revolution. As we will issue our first sovereign green bonds in 2021, I ask my noble friend the Minister: will Her Majesty's Government consider the issuance of green sovereign sukuks, which will help support a green economic recovery following the pandemic? I believe that our financial services sector will play a key role in the economic recovery.

Lord Callanan (Con): As the noble Lord rightly acknowledges, next year the UK will issue its first sovereign green bonds, subject to market conditions, and it intends to follow up with a series of further issuances to meet growing investor demand. However, this is a matter for the Treasury, whose Ministers will update Parliament shortly.

Lord Taylor of Goss Moor (LD) [V]: My Lords, first, I draw attention to my registered interests in renewable heat and sustainable development. Will the Minister acknowledge that the present taxation system fails to reflect the shift in the carbon intensity of energy, with sustainable electricity—and, indeed, electricity in general, which is now much more low-carbon—costing four times, per kilowatt, what gas now does? Is it not time to shift the tax system to reflect the priorities the Government have in their green agenda to shift what people do?

Lord Callanan (Con): I thank the noble Lord for trying to tempt me down the road of reforming the tax system, but I will happily leave that for the Chancellor to announce.

Baroness McIntosh of Pickering (Con): Will my noble friend join me in congratulating farmers on both responding to the Covid epidemic and delivering a green environmental economic recovery? What could be greener than buying locally produced meat, dairy products and cheese this Christmas? Will my noble friend join me in doing so?

Lord Callanan (Con): I thank the noble Baroness for her question. She is quite right, of course: the farming community has had a very difficult year, as have many other industries. Where possible, we should all buy local freshly produced produce.

Lord Ravensdale (CB): My Lords, I declare my interests in the register. The voice of the regions will be key to our green economic recovery. The Midlands Engine's green growth conversation aims to bring together key players in the energy sector, including local authorities, LEPs, businesses and academics to create a regional action plan. What plans do the Government have to interact with such initiatives and support existing regional strengths to enable a clean economic recovery?

Lord Callanan (Con): The noble Lord makes a very good point; the Midlands green growth conversation is an important piece of work, and I look forward to the Midlands Engine growth action plan, which I understand is being published in the new year. The 10-point plan sets out our intention to "reinvigorate our industrial heartlands", such as the north and the Midlands.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, we face increasingly high levels of unemployment post-Covid-19, so does the Minister agree that retraining will be key to the green recovery? Can he explain why that is not mentioned in the 10-point plan? Can he also confirm what budget has been allocated for retraining and that it will be additional to the funding already announced?

Lord Callanan (Con): I agree with the noble Lord that retraining will play an important part. We recently launched the Green Jobs Taskforce to support it. It will look at the key challenges faced by employers and workers in supporting a green recovery, ensuring that we have the right pipeline of talent and skills provision.

The Lord Speaker (Lord Fowler): Baroness Walmsley?

Lord Ashton of Hyde (Con): The noble Baroness needs to unmute.

The Lord Speaker (Lord Fowler): We shall go on because we cannot hear the noble Baroness.

Baroness Hayman (CB) [V]: My Lords—[*Inaudible.*]

Lord Ashton of Hyde (Con): My Lords, we cannot hear the noble Baroness, Lady Hayman. Perhaps she could unmute herself manually and see whether that makes a difference.

Baroness Hayman (CB) [V]: My question was about the Economic Affairs Committee report published today. It makes it clear that recovery from Covid-19 and investment in a green economy for the future are far from divergent aims; they are complementary. Does the Minister agree with the contention in that report that government spending should be on policies more tightly focused on creating job opportunities that reflect the long-term context and that the Government should prioritise green projects that can be delivered at scale and quickly and can take place across the country?

Lord Callanan (Con): I agree with the noble Baroness that we need to generate more green jobs and to build back better—that was the aim of the 10-point plan, and it is a central aim of the Government. The noble Baroness makes an important point and we shall endeavour to do exactly that.

Lord Randall of Uxbridge (Con) [V]: My Lords, on *The 10-Point Plan for a Green Industrial Revolution*, may I urge my noble friend to press his department to invest some of the £5.2 billion promised over six years for flood and coastal defences in creating new wetlands, which would deliver massive benefits for the environment, nature, communities and, of course, jobs?

Lord Callanan (Con): My noble friend makes an excellent point. He will be aware that in the 10-point plan we are doubling the green recovery challenge fund with an extra £40 million. Nature recovery can indeed help us to mitigate and adapt to climate change by capturing carbon and providing other environmental benefits. My noble friend's point is very well made.

The Lord Speaker (Lord Fowler): If the noble Baroness, Lady Walmsley, is still with us, I am quite prepared to take her question now.

I think we can take it that she is not. All supplementary questions have been asked, which brings Question Time to an end.

1.50 pm

Sitting suspended.

Arrangement of Business

Announcement

2 pm

The Deputy Speaker (Baroness Henig) (Lab): My Lords, the Hybrid Sitting of the House will now resume. I ask Members to respect social distancing.

Business of the House

Motion on Standing Orders

2 pm

Moved by ***Lord Ashton of Hyde***

That, in the event of the Taxation (Post-transition Period) Bill having been brought from the House of Commons, Standing Order 46 (*No two stages of a Bill to be taken on one day*) be dispensed with on Wednesday 16 December to allow the Bill to be taken through its remaining stages that day.

Lord Ashton of Hyde (Con): My Lords, on behalf of my noble friend the Leader of the House, I beg to move the Motion standing in her name on the Order Paper.

Motion agreed.

Procedure and Privileges Committee

Motion to Agree

2.01 pm

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

That the Report from the Select Committee *Resetting the limits for Oral Questions, topical Oral Questions, balloted debates and topical Questions for Short Debate; and further temporary suspension of the Standing Orders relating to hereditary peers' by-elections* (5th Report, HL Paper 190) be agreed to.

The Senior Deputy Speaker (Lord McFall of Alcluith) [V]: My Lords, the report concerns two issues: the first is resetting the limits per Member for Oral Questions, topical Oral Questions, balloted debates and topical Questions for short debate; the second is a further temporary suspension of hereditary Peer by-elections. I shall deal with the issues in turn.

[Lord McFall of Alcluith]

This Session is almost a year old, and a number of Members have reached or are about to reach the limit on the number of Oral Questions and topical Oral Questions that they may table in a Session. Previously in long Sessions, the Procedure Committee has recommended and the House has agreed that the limits should be reset after a year has elapsed. The committee's first recommendation, therefore, is that the limits should be reset from 1 January 2021. The committee also recommends that, from now on, the limits should be reset automatically on 1 January each year, and not at the start of the Session. That limit will apply regardless of prorogation, but will be reset at the start of each Parliament and run to the end of that calendar year. I hope that this change is agreed for the convenience of the House.

I turn to the further temporary suspension of hereditary Peer by-elections. The House will recall that, on 23 March, in the light of the Covid-19 pandemic, we agreed to suspend Standing Order 10(6), which states that by-elections must

"take place within three months of a vacancy occurring."

Then on 7 September the House agreed to further suspend by-elections until 31 December.

At its meeting on 1 December, the Procedure and Privileges Committee again considered this issue. The committee discussed the ongoing situation concerning the pandemic, the inability of some Members to attend the House and the suspension of other types of election. While it would be possible to hold a remote by-election, the committee decided, on division, that a further suspension was desirable. The committee will meet again on Wednesday 26 January and will consider this issue again and report to the House as soon as possible thereafter. The report from the committee explains this decision. Noble Lords will have noticed the second Motion in my name on today's Order Paper, which gives effect to the committee's decision. I beg to move.

Amendment to the Motion
Moved by ***Lord Mancroft***

At end insert ", but that this House regrets the further suspension of hereditary peers' by-elections, and calls for such by-elections to resume as soon as possible."

Lord Mancroft (Con): My Lords, the clerks tell me that it is most unusual to table an amendment to regret the Motion in respect of business other than statutory instruments. However, as noble Lords may remember, the Convenor of the Cross Benches recently moved an amendment to regret the Motion on the Second Reading of the internal markets Bill. I hope that the House will forgive me today if I follow his lead.

My Motion draws your Lordships' attention to the Procedure Committee's decision last week to continue the suspension of the Standing Order that enables the by-elections of hereditary Peers to take place. As the noble Lord said, these by-elections were originally suspended in March, when the House adjourned during lockdown; everything was thrown into disarray by an unprecedented crisis, and the House and its authorities and staff responded as best they could. I fully understand that. Even when we returned, with some clerks working from home and everyone at sixes and sevens, suspending non-essential business was perfectly understandable. Since then, eight months later, the hybrid House is operating, communications have improved, Select Committees are sitting, taking evidence and reporting, and even new Select Committees have started their work.

The by-election process is a simple one, which has been done partially by postal vote for some years, and that could be extended without difficulty. The House already communicates with the electorate—your Lordships—every day, and one or two additional items would make little difference. The Clerk of the Parliaments, the in-house returning officer for these elections, already maintains a list of candidates who wish to stand, pursuant to Standing Order 10. In other words, even in these difficult times, it is well within the House's present capabilities to conduct these by-elections. There are currently four vacancies and thus four seats in the House that are unfilled for no apparent reason.

However, with the exception of my noble friend the Leader of the House, the Government Chief Whip, the Lord Speaker and me, every other member of the committee present—one noble Lord was absent—voted to continue the suspension for another month, until January. Your Lordships would reasonably think that the committee had sound reasons for its decision but, if it did, I did not hear any, because no reason was put forward. However, the noble Lord who is the leader of the Liberal Democrats suggested that at a time when no elections were being held it would be "perverse" if the House of Lords was the only place to hold elections. Meanwhile, on the other side of the pond, the United States has held one of the biggest democratic elections in the world, and no one thought that perverse. Indeed, the newspapers were full of warnings not to try to postpone the election. So a country worse affected by Covid than we have been can hold a national election, and we cannot even elect four new Members to this House. I think that is pretty perverse.

Of course, it is true that there have not been any by-elections to the House of Commons, but that is probably because there have not been any vacancies to the House of Commons. I felt that the argument from the leader of the Liberal Democrats was a bit strange, coming from the leader of a party that does rather well in local elections rather than national ones—even more so because, on 27 November, the Liberal Democrats did actually win a by-election, in Perth City South, in Scotland, which received quite a lot of publicity. Did the noble Lord really not know that, or that by-elections have been taking place in Scotland since October? It is just a silly excuse, is it not?

We do not hold hereditary Peers by-elections because we like them, nor should we suspend them simply because we disapprove of them. We hold them because it is the law. Section 1 of the House of Lords Act 1999 abolishes the automatic right of hereditary Peers to a seat in this House, and Section 2 says that 92 people shall be excepted from Section 1 and that

"Standing Orders shall make provision for filling vacancies".

It is not a grey area—it is the law. Nor does it say that the Procedure Committee of this House can ignore the law if it feels like it.

During the Second Reading of the internal markets Bill, I suggested to your Lordships that the rule of law is not in fact black and white and that parking on a yellow line is not the same thing, say, as murder, or another serious offence, but my view did not find favour in your Lordships' House.

> "When those responsible for making the law—that is, us the Parliament, we the lawmakers, who expect people to obey the laws we make—knowingly grant power to the Executive to break the law, that incursion is not small. The rule of law is not merely undermined, it is subverted."—[*Official Report*, 19/10/20; col. 1286.]

Those are not my words; they are the words that the noble and learned Lord, Lord Judge, sadly not in his place, used so eloquently and convincingly when he moved his regret Motion during the passage of the internal markets Bill. I do not think that my colleagues on the Procedure Committee last week were intending deliberately to undermine the rule of law but, perhaps, they allowed their personal and political prejudices to overcome their judgment.

The Select Committees of this House broadly fulfil three roles: some examine general policy areas; others focus on specific Bills or subjects of current national interest and controversy; the third group is concerned with the orderly management of the House and the rules of engagement by which it operates. The Procedure and Privileges Committee falls into that latter category. Over the years, I have sat on Select Committees of all sorts—nine or 10 in total—and this is my second stint on the Procedure Committee, having previously been a member in the 1990s. Of course, everything that our committees do is to a certain extent controversial. We all have strong views on some things, less so on others. We all fight our corners, particularly on hot political issues. That is as it should be, but the committees responsible for running the House tend not to be party political and work in a more collegiate way to find the best way to operate, balancing the needs of the Government, political parties, the Front Benches and, critically, the Back Benches, to enable the whole House to do its job. That is obviously particularly difficult during this pandemic, for reasons that we all recognise. However, in all my years in this House I have never before witnessed a Select Committee treat a subject in such a cavalier and partisan way as the Procedure Committee did last week—in complete contrast to the care with which it approaches all the other difficult issues that come before it.

My final point is about timings. I recognise that the tiresome business of having speaking lists and providing sufficient time for noble Lords to put their names down for business tabled at short notice is a challenge. However, this is the third week running that a Select Committee report has been ordered to be printed on a Wednesday and a Motion to agree it has been tabled late on a Thursday, to be debated immediately after Questions the following Monday. Last week, the Conduct Committee's report on the noble Lord, Lord Maginnis—all 103 pages of it—was debated less than two sitting days after it was published. It is my perception that many more noble Lords would have contributed to that debate if they had been able to. As a consequence, it was a deeply unsatisfactory and unhappy debate.

The latest guidance on the hybrid House and committees, agreed on 11 December and coming into force today, states:

> "Where practicable, there is parity of treatment between remote and physical participants"

in the hybrid House, but that brief business after Oral Questions, such as the Motion we are debating now, is treated as physical business only and there will no remote participation. That, coupled with the habit of tabling these Motions only two days before they are due to be debated, makes it almost impossible for the House to consider them properly. Indeed, a number of noble Lords have contacted me since I tabled my amendment indicating that they wished to participate in this debate but had been unable to do so at such short notice. It cannot be right to table Motions at such short notice and, at the same time, make it mandatory for speakers to be present in person.

As a result, there is a growing feeling on all sides of the House that important matters relating to its working practices, which need to be carefully considered, are being rushed through without the opportunity for reflection and proper debate. The House has made some extraordinary changes to its procedures since March to allow it to operate at all. The Lord Speaker, in his weekly "home thoughts from abroad" has described these changes as a success. Technically speaking, they are, but none of us should kid ourselves—or, more importantly, anyone outside this House—that our current proceedings are anything more than a weak shadow of their former selves, or that this is any way to do business. These changes must be as temporary as possible and certainly not permanent. In its present state, this is not a proper, functioning House of Parliament.

The guidance further states that it is our duty to work from home if we possibly can and to take the advice of Public Health England, an organisation largely now discredited. That is wrong. It is absolutely clear that our first duty is, above all things, to be here in this House, in the words of the writ of summons that all have received and responded to, "waiving all excuses". It is also clear and always has been, long before anyone invented codes of conduct, that our duty is to act and speak at all times on our honour: in other words, as our conscience dictates, however uncomfortable that may be.

I imagine that we would all like to go through life without regrets, but that is not realistic. What I most regret is not some of the things I have done, but rather, the things I should have done but failed to do. It is for that reason that I have tabled my amendment to the Motion today, but I very much regret the need to do so. I beg to move.

The Deputy Speaker (Baroness Henig) (Lab): My Lords, I will call the following to speak: the noble Lord, Lord Grocott, the noble Baroness, Lady Meyer, the noble Lord, Lord Shinkwin, the noble Lord, Lord Strathclyde, the noble Lord, Lord Hunt of Kings Heath, the noble Lord, Lord Trefgarne, the noble Lord, Lord Hamilton of Epsom, and the noble Baroness, Lady McIntosh of Pickering. At that point, I will ask if there are any further speakers. I will then call the noble Lord, Lord Newby, and the noble Baroness, Lady Smith, and ask the Senior Deputy Speaker to reply to the debate.

2.15 pm

Lord Grocott (Lab): My Lords, I would struggle to find anything that I agreed with in the speech from the noble Lord, Lord Mancroft. It was wide ranging, including a reference to Public Health England. I am not sure of the relevance of that to the continuance of these by-elections. The noble Lord managed to say, somehow or other, that this is in the law—as though the law is something on which he has never previously expressed an opinion—and that this is neutral legislation on which he has no particular opinion. Of course, he has in fact been a passionate supporter of that law and, speaking personally, a passionate opponent of every attempt to change the law concerning these particularly ridiculous by-elections.

I strongly welcome the decision of the Procedure Committee to further postpone these by-elections. As the Senior Deputy Speaker said, this is the third Motion of its type. The first, in March, was moved by the Leader of the House and the second, in September, by the Senior Deputy Speaker. The House should spend a moment or two to take stock of this issue. Both the previous Motions were moved for the screamingly obvious reason that the country was in the midst of a coronavirus crisis and the House authorities were overloaded enough already, without having to organise a clutch of hereditary Peers' by-elections. The noble Lord, Lord Mancroft, referred to the first Motion, saying that these were early days and that he could perhaps understand why there was a postponement of further by-elections. However, he did not mention the one in September, when the House unanimously decided that the suspension should continue.

My case is very simple: all the conditions which prompted the House unanimously to suspend the by-elections, first in March and then in September, remain in abundance today. We are operating a hybrid House, which most estimates assume will remain at least until the summer. Non pass-holders are pretty well excluded from the House, unless they are here to give evidence to a Select Committee.

Of the four by-elections pending, two are whole-House elections. In one recent such election, held in January 2017, there were 27 candidates. How on earth do you arrange Covid-safe hustings with 27 candidates and a potential audience of 800? In any case, what is the rush? As the noble Lord, Lord Newby, who I am glad to see in his place, pointed out in the debate in September, if we can postpone local government elections and by-elections until May, surely the nation can cope without four more hereditary Peers' by-elections in the next few months. I should mention at this stage that one of the by-elections is caused by the retirement of the Countess of Mar, who made an outstanding contribution to this House over many years, and whose retirement means that there are no women remaining among the 92 hereditary Peers in this House. She said to me, and in this House, that she was strongly in favour of ending these ridiculous by-elections.

I know that the House is well aware of my views on these elections. On three occasions, in three parliamentary Sessions, I have introduced a Bill to abolish them. Whenever votes have been held on the subject, the majorities for their abolition have been overwhelming in all parts of the House. Had one of my Bills become law, the by-elections would be history by now, and we would have been spared wasting time on debates like today's. That is yet another reason for extending the suspension of these by-elections. The only mechanism, in practice, by which they could be stopped is a Private Member's Bill, a Bill which today's speakers opposed when they had the opportunity.

My Private Member's Bill got its Second Reading in March, and in the normal course of events, it would be well on its passage through the House by now. Yet, as we know—and I fully accept the reasons—during the Covid crisis, all Private Members' Bills have been suspended. I might have a justified grievance if the House, during the Covid crisis, had no time for Private Members' Bills but enough time to organise and hold by-elections to get more hereditary Peers in.

If we do not pass the Motion today, on 31 December, in deep midwinter, the by-election's suspension will lapse; that has not been mentioned, although it has been implied. As 2021 dawns, the House of Lords will embrace the new year by setting in motion the procedure for the election of a clutch of new hereditary Peers. Perhaps, we would hold them all on the same day. It could be a Tuesday—let us call it a "super Tuesday." What sort of message does that send out about this House and its sense of priorities?

Of course we should support the Motion from the Procedure Committee. When it meets in January, the committee should propose a further extension, at least until the House returns to its normal practices and the worst of the Covid crisis is over. In the meantime, is it too much to expect that Private Members' Bills will resume, that self-awareness and common sense in this House will triumph, and that the temporary suspension of these by-elections will become permanent?

Baroness Meyer (Con): My Lords, I will not speak for long, as I have no dog in this fight. However, I remind the House that under Standing Order 10, agreed by both Houses, by-elections are part of the 1999 compromise written into law and due to remain in place until the second phase of Lords reform. By-elections have been free and fair, and they have produced many worthy Members of this House, including the current Chief Whip, the noble Lord, Lord Ashton of Hyde, and a shadow Minister, the noble Lord, Lord Grantchester, to name but two.

Since I have been in this House, which is not very long, it is the hereditary Peers who have impressed me the most. A huge percentage of them work hard, sit on the Front Bench and stay late at night. I have no reason to think the by-election should be postponed yet again. As the noble Lord, Lord Mancroft, mentioned, postal voting is already used and could be extended; it would be unconstitutional for it not to be. I wonder whether this decision had something to do with dislike of hereditary Peers; surely personal bias is not an acceptable reason to delay by-elections further. Therefore, I will support the amendment in the name of my noble friend Lord Mancroft.

Lord Shinkwin (Con): My Lords, I am delighted to speak in support of the amendment to the Motion in the name of my noble friend Lord Mancroft. I will make four points. First, it is a fair assumption, is it

not, that a lawmaking body might just, on the balance of probabilities, have a duty to uphold the law and not continually to postpone its implementation, as we are doing in the case of hereditary Peers' by-elections—a minor detail for some, I dare say. But I wonder whether there is an elephant in the room—in the Chamber, even—that dares not speak its name, and so large is it that it distorts all sense of perspective.

This brings me to my second point. Some say, occasionally on a Sunday, that your Lordships' House is too large. But that disregards the fact that only about half of us attend on a regular basis. The elephant in the room, which some have a vested interest in ignoring, is that the introduction of a mandatory retirement age would address that issue overnight and to a far greater extent than yet another unjustified suspension of the hereditary Peers' by-elections.

My third point is simply this: who among us could fail to have been impressed by the example of duty and public service to her people set by our sovereign during one of the deepest domestic crises of her long reign? So, why, closer to home, here in your Lordships' House, do we hack at the roots of such a noble tradition by denigrating, rather than celebrating, such a strong sense of duty and public service passed down from one generation to the next by some of this country's oldest and most distinguished families?

Finally, I was born not with a silver spoon in my mouth but with a broken leg. I have no vested interest, but neither am I burdened by a boulder on my shoulder. Surely we are bigger than this. We should honour our duty and uphold the law. Hereditary Peers' by-elections should resume without delay.

Lord Strathclyde (Con): My Lords, I listened with care to what the noble Lord, Lord Grocott, said, and increasingly, I find myself deeply shocked by his whole attitude towards these elections. Every week, he is perfectly happy to vote against the Government on a whole load of extremely important issues, but when it comes to voting on something like this, he suddenly gets all coy and shy and does not think he is capable of doing so, and nor is the rest of the House. This must be complete nonsense.

The noble Lord, Lord Grocott, misrepresents the reason that I, my noble friend Lord Mancroft and others are so opposed to the Bill he has proposed many times. The reason is not to defend the continuation of hereditary Peers or the by-elections but to avoid the creation of a wholly appointed House. Many Peers have spoken on this. The noble Lord, Lord Adonis, has made several great interventions on the issue. The noble Lord, Lord Grocott, would find his Bill far easier to pass if he were to bring forward a clause for the creation of an independent, statutory appointments commission that would, at that stage, police who came into the House, but he is steadfast against that.

2.30 pm

The reasons the Senior Deputy Speaker provides for not having these by-elections are about as thin as they could be. If they are to be further suspended at the January meeting, I hope he can come forward with considerably better reasons than these. In the footnotes of this report, I was amazed to see that there had been a by-election, as mentioned by my noble friend Lord Mancroft—and who should have voted against the suspension but the Lord Speaker, the Leader of the House and the Government Chief Whip? I really would have thought that the Procedure Committee, which exists essentially to try to help us all with procedures, would have considered this with rather more care than it obviously did before it continued the suspension.

My noble friend also raised legal advice. This House has very recently spoken at some length about and voted in favour of the rule of law. Great articles have been written and speeches have been made. Could the Senior Deputy Speaker write to me to say whether the House has taken any legal advice on whether it is in breach of the law? If it is not in breach, at what point would it be—after 12 months, after 10 years? I have no idea, but someone must know and we should be told.

I gather that there will be a further report. I have no doubt that this report will be agreed today, and there has been a request for a further one. I really hope that, when we discuss this again, we will have real answers to why we should not have these by-elections, given that the technology is now available to do so much.

Lord Hunt of Kings Heath (Lab): My Lords, it is a great pleasure to follow the noble Lord, Lord Strathclyde, who is as earnest a reformer of your Lordships' House as I am. Before coming on to the substantive argument, I have a couple of comments on what the noble Lord, Lord Mancroft, said.

First, I regret what he said about Public Health England. I point out to him that the people working for it have been working all hours and doing a tremendous job. They are officials; they are part of the Department of Health. We argued against this on the Health and Social Care Act 2012, but the Government insisted that they lose their independence and they were brought into the department. They are officials and cannot speak for themselves; the person accountable for their performance is none other than the Secretary of State. It is a great pity to hear such nonsense from some noble Lords opposite on the responsibilities and duties of public officials.

Secondly, the noble Lord referred to issues being rushed through this House. Of course hybrid working is not perfect and there must be some trade-offs, but this is a good opportunity to say how much I appreciate what has been done and how effective we have been. Members of the Commons tell me how they wish they could follow the way we have been able to do this.

On the substantive issue, surely the nub of my noble friend Lord Grocott's argument is that, at the height of the many issues this country faces at the moment, the idea that we should waste time on these ludicrous by-elections is complete nonsense. Also, I would be very surprised if the Procedure Committee made any recommendation to your Lordships' House that did not keep fully within the law. The decision to postpone these elections is very sensible.

The noble Baroness, Lady Meyer, referred to the House of Lords Act 1999, on which the noble Lord, Lord Strathclyde, was a leading actor for the Opposition and I was the Government Whip in the Lords. I think I

[LORD HUNT OF KINGS HEATH]
sat through every minute of those riveting debates. The premise was very much that reform would soon follow. We saw what happened: first, my noble and learned friend Lord Irvine's White Paper did not get very far; he and I served on a Joint Committee chaired by Jack Straw—if he remembers—which attempted to produce a consensus on a way forward, which did not make as much progress as we would have hoped; then the coalition Government attempted Lords reform. It is time to accept—I regret it as much as the noble Lord, Lord Strathclyde—that reform is some way off.

We are in the process of trying to reduce the House. There has been general agreement on all sides that we should do it. Frankly, it would be a modest contribution to suspend the by-elections a little longer. The Procedure Committee has gained a reputation over the years for taking its time on difficult matters. I suggest it take a very long time indeed before it decides to allow these ridiculous by-elections to go ahead.

Lord Trefgarne (Con): My Lords, I will not detain your Lordships for more than a few moments. I very much agree with the position taken by my noble friend Lord Mancroft. These hereditary Peer by-elections should and, I hope, will remain in place until—as was said back in 1999—House of Lords reform is complete. I had the privilege the other day of having a small piece published in the *New Statesman* in which I described what I thought might be an appropriate form of House of Lords reform. To be honest, I would not oppose an elected House, but I do not believe the idea would ever get through the other place. I am therefore more than happy to support something rather more modest, as I said in my piece, to which my noble friend Lord Strathclyde referred. These by-elections are provided for in law. They should happen as soon as possible. I very much support my noble friend Lord Mancroft.

Lord Hamilton of Epsom (Con): My Lords, I address the House from the Cross Benches, not because I have suddenly decided to join them but because there is so much enthusiasm from my Conservative colleagues to contribute to this debate that I did not have anywhere else to sit. I also have worries about trying to join the Cross Benches; I do not think I am left-wing enough.

I am still smarting under the blow of the internal market Bill, when we were told in no uncertain terms that the Government were acting illegally regarding the withdrawal agreement. I opposed the noble and learned Lord, Lord Judge, at that point, because I had been told by my noble and learned friend Lord Keen, the former Advocate-General for Scotland, that it was legal. We therefore had a disagreement between two very distinguished lawyers over what was legal and what was not in that Bill.

We are back in this situation now. Legal advice is being given that it is all right to delay these by-elections, while other legal advice would tell you that it is not all right to go against an Act of Parliament and a statute saying that these by-elections should be held. The problem with lawyers is that they are liable to back whichever side happens to suit them at the time. I would not describe the noble and learned Lord, Lord Judge, as hypocritical, but I would call him inconsistent. The House should seriously consider its different views on legality in this case.

Baroness McIntosh of Pickering (Con): I suppose I will be described as a "lefty lawyer", but I would like to change the subject. I welcome the provisions in the fifth report of the Procedure Committee relating to Questions, which are eminently sensible and practical. Could it also look at Questions for Written Answer which have not been answered for 10 days or more? There are some 113 such Questions on the Order Paper today; this should be addressed as a matter of urgency.

Baroness Fox of Buckley (Non-Afl): I listened with interest to the arguments made by the noble Lord, Lord Mancroft. He made some important and salient points about the workings of this House. I hope that it returns to normal as soon as possible, as it is best that we do not make a virtue out of a grim necessity.

I know that I am new here. I am absolutely no fan of hereditary Peers, on principle, but the truth is that no one is elected here. Appointed Peers are no more democratic than hereditary, and I would like the fullest possible debate on reform, even abolition, in the future. But I find it distasteful to use this Covid crisis to push through political reform by stealth. To suspend a by-election using Covid as an excuse seems completely wrong to me, whatever the by-election is or however silly people consider it. In too many instances, I have found politicians on all sides prepared to use this pandemic to avoid proper, accountable and open debate, and to push issues that they would never get through if they had to face the electorate or even Parliament, in some instances. They are also using this pandemic to subvert laws and norms.

I do not support the amendment of the noble Lord, Lord Mancroft, because it is about hereditary Peers, but it seems right and proper that procedure is followed and that Covid is not used sordidly to avoid accountability and elections of some sort, at least.

The Deputy Speaker (Baroness Henig) (Lab): I fear to tempt fate, but must ask if anyone else in the Chamber wishes to speak.

Baroness Noakes (Con): My Lords, I am not always popular with hereditary Peers, because I think that the by-elections are ludicrous. I am with the noble Lord, Lord Grocott, on his Bill and regret that he is having such a difficult time bringing its passage forward, but I support my noble friend Lord Mancroft today, because this is the law. We should not let a procedure committee override the law, especially because there do not appear to have been any serious attempts to find a workable solution. This is just one deferral leading to another.

I suspect I know what will come back from the January meeting of the Procedure and Privileges Committee, unless a clear instruction is given to the clerks now to come up with a workable solution for that meeting. My noble friend Lord Mancroft has made it plain that this would not be difficult to organise, given the practices that we have evolved, over the last nine months, to become a hybrid House. The technology and procedures are available. It would not take the

clerks very much time to devise a satisfactory procedure, and I hope that noble Lords support my noble friend Lord Mancroft.

Lord Newby (LD): My Lords, I apologise for detaining the House. I had not intended to speak but, as the noble Lord, Lord Mancroft, took the trouble to explain what he understood to be my views, he goaded me into speaking. I apologise for detaining other noble Lords on that basis.

The noble Lord, Lord Mancroft, said that no arguments were put in the committee and that it took a "cavalier and partisan" decision. He then explained the argument I put, so there was some inconsistency there. Actually, the committee took quite a lot of time on this issue, a number of arguments were advanced and a vote was taken. The problem for the noble Lord is not that there were no arguments; it is that he did not like them and then he lost the vote.

For the avoidance of doubt, this is the argument that I made, and other members of the committee must decide whether or not it weighed with them. At a time when all elections in England and Wales are postponed—all local elections, the mayoral election in London and all by-elections—for the House of Lords to have a by-election in those circumstances would make the place look even more ridiculous than it does whenever we have such elections.

The noble Lord mentioned that there are by-elections in Scotland, so there should be no bar to a House of Lords hereditary Peers by-election. There are by-elections in Scotland and my party was fortunate to win one. It is possible to hold by-elections in England and Wales today, but the Government decided, and this House agreed, not to do so. There are and will be none until May. It therefore seemed logical to apply the same principle to by-elections of hereditary Peers. We can revive our discussions, as we will at the end of January to see what we think then.

On behalf of the committee, I object to how, when the noble Lord loses a vote, he dresses it up as the committee not operating properly. The committee operated absolutely properly. There was a long debate with strong feelings on both sides. There was a vote and the noble Lord lost. End of.

2.45 pm

Baroness Smith of Basildon (Lab): My Lords, I totally agree with the last point made by the noble Lord, Lord Newby. This is quite extraordinary. I do not know that it has ever happened before in your Lordships' House—that a member of a committee does not like the decision of that committee and then tables an amendment. In fact, the decision of the committee was a compromise. I could equally have tabled an amendment in the same terms as the noble Lord's, because I did not think it was the best decision to wait until the end of January. The noble Lord, Lord Ashton, will recall that I proposed that we wait until we are not operating in a hybrid way. I will come back to something that the noble Lord, Lord Mancroft, said on that. When we are operating normally and can function properly as a House, as he put it, that would be the time to have by-elections of hereditary Peers.

I have been clear throughout, whatever my views on the by-elections—I take the same line as the noble Baroness, Lady Noakes: I do not think they are appropriate in this House; this is the next stage of reform, and I support the Grocott Bill—that is not what we are discussing today. I cannot speak for other noble Lords and I speak entirely for myself, but that did not play a part in my decision to support the suspension first proposed and that it should continue now.

This has been an extraordinary debate, but it would be wrong if we set a precedent that, when an individual does not agree with a committee's decision, anyone can bring forward a Motion to disagree or to change it. I have no intention of doing that on this matter, which I did not fully support, but it was a compromise.

I will pick up some of the comments. First, I thank the noble Baroness, Lady McIntosh, because she addressed other parts of the report. I am not suggesting that we have a further debate on those points, but I think resetting Questions is a sensible move when parliamentary sittings are becoming uncertain. To go from January to December and have an annual allowance for Questions makes more sense. She will recall that I raised Written Questions and had discussions with the Government Chief Whip at the end of the previous Session, when we had a huge number of outstanding Questions that were not being answered.

Part of the problem is that many more Questions are being asked, partly because so many of the Answers are inadequate, so noble Lords go back two or three times to get to the bottom of what they are seeking. I propose that there should be a day's debate when those who have Questions outstanding can hear Ministers' Answers. The Department of Health has the greatest number of Questions and wrote to every Member to address their outstanding Questions. Unfortunately, as helpful as the letter was, it did not answer the Questions. We need to look at some way to address this, because there is a huge backlog of Written Questions and the Answers are not as adequate as they should be.

To come back to the matter at hand, the noble Lord, Lord Mancroft, raised several points that were just incorrect. First, he talked about the Conduct Committee debate on the report into the noble Lord, Lord Maginnis, who has now been suspended from your Lordships' House. There was no debate on that report. This House decided that reports could be received and voted on, but no debate took place. It was not that scores of Members were trying to speak who were unable to, because it would not have been allowed.

Secondly, there was a point raised by the noble Lord, Lord Mancroft, and others, such as the noble Lords, Lord Hamilton and Lord Strathclyde, and the noble Baroness, Lady Noakes, about breaking the law. The noble Lord, Lord Strathclyde, is absolutely right: the committee took legal advice and it was as one would assume—that it would be wrong to use the Covid emergency. It is worth noting that it is becoming more of an emergency, with the proposal that London, Essex and Kent will probably go into tier 3 even today, rather than the decision being taken later this week, as expected. That was reported as I was driving to your

[Baroness Smith of Basildon]
Lordships' House earlier, so this is a serious situation, but it would be wrong to use that situation to take a political view on hereditary by-elections.

The legal advice said that you could continue to suspend them but that you would have to fix a date, or have a route map or a plan to say when they were coming back; it could not be indefinite. As long as a decision is taken to show they are going to be reinstated, that is within the law. I hope that allays noble Lords who feel that the law is being broken—the law is not being broken. The noble Lord, Lord Mancroft, saw the same legal advice as I did. The law has not been broken and is not being broken; it is acting within the law to say that a further period of suspension to deal with Covid is satisfactory.

The noble Lord, Lord Mancroft, also said that there were no arguments. As the noble Lord, Lord Newby, said, there were no arguments that he liked—he disagreed with the arguments. It would not be right for me to divulge who voted how, and the vote took place—

Noble Lords: It is public.

Baroness Smith of Basildon (Lab): Oh, it is public—so noble Lords will see that it is not straight along party lines. The idea that a political decision is being taken is absolute nonsense. People made a decision on the information and the legal advice before them.

I would also like to take up the point of the noble Baroness, Lady Meyer, who spoke of this House having a dislike of hereditary Peers—absolute tosh. I have never heard anything so shocking. I have never seen anybody in this House show any less respect to, or find any less credible, a hereditary Peer than an appointed Peer. All Peers once they are here are equal, and they are treated with equal respect. I am sorry she felt she had to make that point, but she is completely wrong on that.

The noble Lord, Lord Mancroft, also said that the hybrid House is not functioning properly and talked about things being rushed through the House. I think I can look to the noble Lord, Lord Ashton, for some agreement on this: the one thing that is not happening in this place at the moment is business being rushed through. Most business takes significantly longer than it did when the House was working normally. I think the one thing everybody in this House will agree on is that the sooner we are able to get back to a functioning House, and the way we normally do our business, the better.

One of the other decisions taken at this committee, as the noble Lord, Lord Mancroft, fully knows, was that, in January, when we shall meet to consider hereditary Peer by-elections, we will also look at the route map and the stages towards this House returning to normal working. That does not mean we can say "On 1 April this will happen", or "On 1 June that will happen", but we can say that when social distancing reduces, and when people are vaccinated, that is all part of the route map to us getting back to our normal way of proceeding.

The amendment to the Motion is ill judged. I hope it does not set a precedent. I could have equally put down a Motion—which I think I would have had the House's support for—to say that we park this issue while we operate in a hybrid way. It was never about the election; it was always about the hustings and how those who wanted to vote could hear the views of those who wished to stand in these elections. It would be nonsense to start them now. It is a far better decision to just hold fire and delay, wait until we are working normally and then restart those by-elections. My noble friend Lord Grocott will then have the opportunity to present his Bill again, and I will support it again. But that is not the issue before us today—it is the straightforward Procedure and Privileges Committee report and what is in the best interests of this House at this time.

The Deputy Speaker (Baroness Henig) (Lab): I call the Senior Deputy Speaker to reply to the debate.

Baroness Meyer (Con): I just would like to correct something. Obviously, there has been a misunderstanding—

The Deputy Speaker (Baroness Henig) (Lab): We are not allowed points of order. I am very sorry. I call the Senior Deputy Speaker.

The Senior Deputy Speaker [V]: My Lords, I thank the 13 Members who spoke for providing us with their very strong and varied comments on this issue. To take the prevailing views that were aired at the committee, the issues concerned were the current state of the pandemic; the difficulty of holding hustings while social distancing; the requirement for Members to take the oath in person, which is unwise for people with underlying health conditions; and the suspension of other types of elections, such as local elections. In that vein, the committee thought it was desirable to postpone by-elections for a further period.

On the issue of the law and whether the standing order could be suspended indefinitely as a way of getting rid of by-elections—as was suggested in the debate—the advice of counsel is that the House of Lords Act 1999 requires by-elections as a matter of law and that, while it may be possible to justify their temporary suspension due to a national emergency, it would be quite different to suspend by-elections indefinitely in an attempt to defeat the legal requirements of the Act of Parliament. Indeed, a new Act of Parliament would be required to secure a more permanent change to these arrangements.

The issue was about the committee dividing. I think this touches on the nature of the debate and the commitment of people during the discussions we had. Divisions in the committee are very unusual indeed; there has not been one for over a decade. We always try to achieve consensus, allowing Members to put their point of view in their time and in their way. That is the hallmark of the committee's work. Indeed, Members have been complimentary to us on the way we have dealt with the hybrid proceedings of the House, and other issues, as we have faced the pandemic. So we look at it as a whole. Today's debate has demonstrated that this is an issue on which there are often strong and fairly irreconcilable views. That is why the committee will be talking further and hoping to seek to agree a way forward when it meets in March.

I was asked two points by Members. One was to write on the legal issue—I think that was raised by the noble Lord, Lord Strathclyde—and I am very happy to do that. Secondly, turning to the noble Baroness, Lady McIntosh, and Written Questions, it is custom and practice that when Members contact me, I always put their issues in front of the Procedure and Privileges Committee. That is what I will do for the noble Baroness, Lady McIntosh, and others.

I would just like to finish by commending the hard work and the conscientious way that Members of the committee look to the work that they do on behalf of the House. I am sure that they will continue to do that in that vein.

Lord Mancroft (Con): My Lords, when I moved my amendment to the Motion, in what I hoped was a very measured way, I did not intend to set off a firecracker in your Lordships' House—but I apologise, because I appear to have done so. I did not intend either to have a debate about the splendid Bill in the name of the noble Lord, Lord Grocott—which I do not agree with, of course—nor to have a wider debate on Lords reform.

What I was hoping to do was to draw your Lordships' attention to one or two things which I felt they might benefit from having a chance to mull over. It seems to me that the one person who did focus, and did seem to identify in my obviously very badly put words what I was trying to say, was the noble Baroness, Lady Fox, whose remarks I agree with completely. What I am concerned about more than anything is that, not deliberately but incidentally, we are setting off on routes and making decisions under the difficult conditions in which the House is currently working that we would not normally make, or that we should not wisely make. That was what I wished to draw to the House's attention. I think I succeeded in doing so—and a few other things as well—but, in the meantime, I think we had best move on. I therefore beg leave to withdraw my amendment.

Amendment to the Motion withdrawn.

Motion agreed.

Hereditary Peers: By-elections

Motion to Suspend

2.59 pm

Moved by ***Lord Ashton of Hyde***

Further to the Orders of 23 March and 7 September, that Standing Order 10(6) (*Hereditary peers: by-elections*) be further suspended pending a further report from the Procedure and Privileges Committee.

Motion agreed.

Unmanned Aircraft (Amendment) (EU Exit) Regulations 2020

Renewable Transport Fuel Obligations (Amendment) Order 2020

Motions to Approve

3 pm

Moved by ***Baroness Vere of Norbiton***

That the draft Regulations and Order laid before the House on 15 October and 3 November be approved.

Considered in Grand Committee on 7 December.

Motions agreed.

Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2020

Control of Mercury (Amendment) (EU Exit) Regulations 2020

Detergents (Amendment) (EU Exit) Regulations 2020

Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020

Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020

Motions to Approve

3.01 pm

Moved by ***Baroness Penn***

That the draft Regulations laid before the House on 13, 14, 19 and 20 October be approved.

Relevant document: 32nd Report from the Secondary Legislation Scrutiny Committee (special attention drawn to the first instrument). Considered in Grand Committee on 9 December.

Motions agreed.

Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2020

Motion to Approve

3.01 pm

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

That the draft Regulations laid before the House on 15 October be approved.

Considered in Grand Committee on 9 December.

Motion agreed.

Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) (No. 2) Regulations 2020

Health Protection (Coronavirus, Testing Requirements and Standards) (England) Regulations 2020

Motions to Approve

3.02 pm

Moved by ***Baroness Penn***

That the draft Regulations laid before the House on 23 and 25 November be approved.

Relevant documents: 37th Report from the Secondary Legislation Scrutiny Committee and 34th Report from the Joint Committee on Statutory Instruments (special attention drawn to the second instrument). Considered in Grand Committee on 10 December.

Motions agreed.

Customs Safety and Security Procedures (EU Exit) Regulations 2020

Motion to Approve

3.03 pm

Moved by ***Baroness Penn***

That the draft Regulations laid before the House on 26 November be approved.

Relevant document: 36th Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 10 December.

Motion agreed.

Future Relationship with the EU

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Thursday 10 December.

"I am grateful for the opportunity to update the House again on the progress of our negotiations with the European Union. The Prime Minister met the Commission President yesterday evening in Brussels. They, along with the chief negotiators, Lord Frost and Michel Barnier, discussed the significant obstacles that still remain in the negotiations. It is clear that we remain far apart on the so-called level playing field, fisheries and governance. However, they agreed that talks should resume in Brussels today to see whether the gaps can be bridged. They also agreed that a decision should be taken by Sunday regarding the future of the talks.

We are working tirelessly to get a deal, but we cannot accept one at any cost. We cannot accept a deal that would compromise the control of our money, laws, borders and fish. The only deal that is possible is one that is compatible with our sovereignty and takes back control of our laws, trade and waters. As the Prime Minister said, whether we agree trading arrangements resembling those of Australia or Canada, the United Kingdom will prosper as an independent nation. We will continue to keep the House updated as we seek to secure a future relationship with our EU friends that respects our status as a sovereign, equal and independent country."

3.04 pm

Baroness Hayter of Kentish Town (Lab): I would like to ask the Minister what progress there has been since that Statement was made on Thursday.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, discussions are continuing as we are enjoying our session here.

Baroness Ludford (LD) [V]: That was rather a short answer. My Lords, Tobias Ellwood MP, the Conservative chairman of the Defence Committee, has warned that no deal will imperil Tory prospects at the next general election. Maybe that, if not the will of the country, will motivate the Prime Minister. My own priorities include security. When asked about access to EU databases, the Paymaster-General told the other place:

"We will be gaining access to new information via safety and security declarations."—[*Official Report*, Commons, 10/12/20; col. 997.]

I think that is a reference to movement of goods. Can the Minister tell me what on earth those declarations have to do with cross-border policing?

Lord True (Con): I must tell the noble Baroness that negotiations are continuing. As I have said to the House, we are confident that good security co-operation between the United Kingdom and our friends in the European Union will continue, whatever the outcome.

Lord McLoughlin (Con): My Lords, the Government say in the Statement that they

"are working tirelessly to get a deal."

I welcome that, but at what point will people know whether there will be a deal or not? As you see when driving down the motorways, and in other government advertisements, people and companies are told to get ready for 31 December. What are they getting ready for?

Lord True (Con): The reality is that, whatever happens in these negotiations, there will be change on 31 December to 1 January. As enacted in law, the United Kingdom will leave the European Union single market and customs territory. For that reason, new customs and border arrangements will come into place. All businesses and citizens should be aware of that and make preparations for it.

The Duke of Wellington (CB) [V]: My Lords, I declare my European and agricultural interests as detailed in the register. I am sure all Members of this House wish the Government well in their negotiations at this very difficult moment. Surely, whatever their party or interest, no Member of this House would have wished to see the country in the position we find ourselves in—only 17 days before the end of the transition period. Does the Minister agree that it will be absolutely necessary to negotiate a period of adjustment or implementation so that, whatever the outcome, the changes do not all come into effect on the first day?

Lord True (Con): We already have a range of agreements with the European Union over, for example, the Northern Ireland protocol, where arrangements and derogations are agreed. We have other arrangements—for example, we have already announced the phased introduction of border controls. However, the transition period will end on December 31 and that remains the position.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): I call the next speaker, the right reverend Prelate the Bishop of Southwark. Bishop? We will move on to the next speaker and come back. I call the noble Baroness, Lady Symons of Vernham Dean.

Baroness Symons of Vernham Dean (Lab): My Lords, does the Minister agree that, as the Government have agreed to extend the deadline for negotiation and agreement, genuine compromise on both sides is needed? Does he also agree that there must be further genuine compromise by the European Union and, equally importantly, by Her Majesty's Government?

Lord True (Con): My Lords, the aspiration of the Government has been and remains to get a free trade deal with our friends and former partners in Europe. As the noble Baroness said—and I agree—an enormous number of areas of ground in the negotiations have been carried positively. But specific and deep differences remain on the well-known points that have been discussed, including the so-called level playing field and fisheries. Those are matters of intensive negotiations. The chief negotiators began to negotiate again at 10 am this morning. I will not prejudge what might be going on in those negotiations, but I can assure the House that the intention of the Government is positive. As the Prime Minister said, while there is life, there is hope.

Lord Howard of Rising (Con) [V]: Does my noble friend the Minister agree that there is a strong element of Alice in Wonderland permeating our negotiations with the European Union? Normally, when two parties negotiate a transaction from which both sides will benefit, the side with the most to gain customarily makes the concessions and is the party making the greatest effort to achieve a satisfactory conclusion. The EU is making a £90 billion profit each year from trading with the United Kingdom. Does the Minister agree that the posturing of the EU and its treatment of the United Kingdom as a colony is out of place? An example of this is Monsieur Macron acting as if France has a God-given right of access to British fish in British waters. Does he further agree that the superb work done by the noble Lord, Lord Frost, and his assistant, Oliver Lewis, to try to make the EU understand that Great Britain is not a colony of the European Union but a free and sovereign state is to be applauded?

Lord True (Con): My Lords, I can certainly agree that my noble friend Lord Frost and his colleague, Mr Lewis, are doing their duty to the very greatest extent. Of course, that is not helped by the injection of new material into the negotiations at a late stage. As I have said before at this Dispatch Box, I do not go into criticising the Governments of other nations. All I would say is that we are going to try as hard as we can and to be as creative as we possibly can in taking this on. However, what we cannot do is compromise on the fundamental nature of what Brexit is all about. It is about being able to control all our laws and to have control of our fisheries.

Lord Kerr of Kinlochard (CB) [V]: I do not think that the European Union is treating us as a colony. Indeed, the Spanish Foreign Minister reminded us this morning that trade negotiations are not about asserting independence but about managing interdependence. My question is about the language in the Statement, which yet again says that any deal must be compatible with our sovereignty and must respect our new status as a sovereign, equal and independent country. Does the Minister believe that the French Republic, the Kingdom of Spain, the Federal Republic of Germany and the other 24 EU member states are neither independent nor sovereign? If he does accept that they are independent sovereign states, just like us, why do we insist on insulting them again and again by implying in public that they are not?

Lord True (Con): My Lords, the noble Lord is a masterly negotiator; I remember the Maastricht deal. However, I think he has advanced a syllogistic argument that I cannot follow. The fact is that nations may use their sovereignty in whichever way they choose, and out choice as a sovereign nation is that we wish to control our laws, our borders and our waters.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, the time allowed for this Question has elapsed.

3.15 pm

Sitting suspended.

United Kingdom Internal Market Bill

Commons Reasons and Amendments

3.21 pm

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, hybrid proceedings will now resume. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

These proceedings will follow guidance issued by the Procedure and Privileges Committee. When there are no counterpropositions, the only speakers are those listed, who may be in the Chamber or remote, and the Minister's Motion may not be opposed. When there are counterpropositions, any Member in the Chamber may speak, subject to the usual seating arrangements and capacity of the Chamber. Any intending to do so should email the clerk or indicate when asked. Members not intending to speak on a group should make room for Members who do. All speakers will be called by the Chair. 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. Leave should be given to withdraw.

When putting the Question, I will collect voices in the Chamber only. Where there is no counterproposition, the Minister's Motion may not be opposed. A participant,

[Lord McNicol of West Kilbride]
whether present or remote, who might wish to press a proposition other than the lead counterproposition to a Division must give notice to the Chair either in the debate or by emailing the clerk. If a Member taking part remotely wants their voice accounted for in the Question, if put, they must make this clear when speaking on the group. Lords following proceedings remotely but not speaking may submit their voice, Content or Not Content, to the collection of the voices by emailing the clerk during the debate. Members cannot vote by email—the way to vote will be via the remote voting system.

Motion A

Moved by ***Lord True***

That this House do not insist on its Amendments 1B, 1C and 1D to which the Commons have disagreed for their Reason 1E.

1E: Because the Lords Amendments will create legal uncertainty, which would be disruptive to business.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, I will address Amendments 1F, 1G, 1H, 1J, 1K and 1L. Last week, the other place was clear in its disagreement with Amendments 1B, 1C and 1D when it removed them from this Bill.

I appreciate the ongoing contributions of noble Lords to these debates on the interactions between the market access principles and common frameworks. I very much welcome the constructive engagement we have had on this issue since last Wednesday. In particular, I thank the noble and learned Lord, Lord Hope, for his continued contribution and for his willingness to engage in ongoing dialogue on his amendments, which he has tabled in lieu.

There have also been constructive conversations with the Labour Front Bench over the past week, for which I am grateful. I look forward to continuing discussions with the noble Baroness opposite and the noble Lord, Lord Stevenson of Balmacara, in seeking to bridge the gap between our two positions. I should also express my appreciation of the helpful contributions and advice from my noble and learned friend Lord Mackay of Clashfern.

As I said in the House last week, the previous amendments from the noble and learned Lord, Lord Hope, would have created a broad regime of exclusions from the market access principles, which would have denied businesses and consumers much-needed clarity regarding the terms of trade within which they operate. The Government have been clear throughout these debates that we agree on the need for an exclusions regime, but one that is carefully drafted and provides certainty for business. In drafting the Bill, specifically Clauses 10 and 17, the Government have designed an exclusions approach that achieves a careful balance.

I understand the aim of the noble and learned Lord's revision to his amendment, which is to further specify the interaction between divergence agreed under common frameworks and exclusions to the market access principles. However, our assessment remains that the approach in these amendments goes too far in both the breadth of the exclusions it may require the Secretary of State to create and the uncertainty it could lead to. This runs counter to the certainty that the Bill is designed to provide.

To further emphasise the Government's position, I will take the opportunity to clarify some of the points noble Lords raised during our debate last week. The noble and learned Lord, Lord Hope of Craighead, expressed concern that traders may need to consider relevant regulations in different parts of the United Kingdom. I reiterate that the mutual recognition principle provides reassurance for traders, in that as long as they comply with local relevant requirements they do not need to worry about those other parts. This is the advantage of our proposed approach: we have carefully created an architecture that means that a trader will have clarity regarding the rules they should follow. As I have said before, the uncertainty introduced by the wholesale exclusions from the market access principles afforded by the amendment should not be supported by the House.

The common frameworks process will encourage a conversation about a common approach and so provide for consensus-based decision-making in sectoral areas of the economy. However, the Government believe that common frameworks on their own cannot determine where matters should or should not be in scope of the market access principles. That is a job for the UK Parliament and for MPs from the whole of the United Kingdom.

The Government also believe that the system they have designed should create a proper balance between the independent operation of devolved powers and the automatic application of the principles that protect the market and give certainty. The Government have been clear in Parliament about our commitment to the common frameworks programme, which I repeat today, and the value we attach to the fora that common frameworks provide for collaborative working with the devolved Administrations. As noble Lords are aware, the common frameworks programme provides an avenue for discussing ways of working and as such is primarily concerned with processes rather than determining specific policy outcomes.

The programme aims to put in place durable arrangements for intergovernmental working between the Government and the devolved Administrations, and our intention remains that these mechanisms for co-operation on specific policy areas will allow for coherent policy-making between the UK Government and the devolved Administrations in those policy areas. For this reason, we think that the common frameworks programme is complementary to the mechanisms set out in the Bill, and I respectfully suggest again that the approach put forward in the amendments is contrary to the Government's responsibility to provide businesses with the certainty they need to operate across the United Kingdom. I repeat my gratitude to other noble Lords for the constructive conversations that have been taking place.

Motion A1 (as an amendment to Motion A)

Moved by ***Lord Hope of Craighead***

At end insert "but do propose Amendments 1F, 1G, 1H, 1J, 1K and 1L in lieu—

1F: Clause 10, page 7, line 23, at end insert—

"( ) The Secretary of State must by regulations under subsection (2) exclude the application of the United Kingdom market access principles to a statutory provision or requirement that gives effect to a decision to diverge from harmonised rules that has been agreed through the common frameworks process."

1G: Clause 15, page 9, line 27, at end insert—

"( ) "Common frameworks process" means the process, established by the Joint Committee on European Negotiations, by which a measure of regulatory consistency to enable a functioning internal market within the United Kingdom may be mutually agreed between the United Kingdom and the devolved governments."

1H: Clause 17, page 12, line 42, at end insert—

"( ) The Secretary of State must by regulations under subsection (2) add the services referred to in a statutory provision or requirement that gives effect to a decision to diverge from harmonised rules that has been agreed through the common frameworks process to the authorisation requirements in Part 3 of Schedule 2 or the list of regulatory requirements, as the case may be, to which section 18 (mutual recognition) or sections 19 and 20 (non-discrimination) do not apply."

1J: Clause 21, page 14, line 35, at end insert—

"common frameworks process" means the process, established by the Joint Committee on European Negotiations, by which a measure of regulatory consistency to enable a functioning internal market within the United Kingdom may be mutually agreed between the United Kingdom and the devolved governments;"

1K: Clause 25, page 19, line 24, at end insert—

"( ) The Secretary of State must by regulations subject to the affirmative resolution procedure exclude the application of section 22(2) to a provision which has been agreed through the common frameworks process."

1L: Clause 27, page 21, line 19, at end insert—

"common frameworks process" means the process, established by the Joint Committee on European Negotiations, by which a measure of regulatory consistency to enable a functioning internal market within the United Kingdom may be mutually agreed between the United Kingdom and the devolved governments;"

3.30 pm

Lord Hope of Craighead (CB) [V]: My Lords, in moving Motion A1, I shall speak to Amendments A1F to A1L in my name.

I am grateful to the Minister in the other place, Chloe Smith, and her Bill team, for taking time to discuss the common frameworks issue with me last Thursday. I am also grateful to the Minister for taking time on a busy day to attend that meeting, and for his very helpful introduction to this debate. As a result of that meeting, both sides now have a much better understanding of the issues that divide us. We are much closer to a solution, but we are not quite there yet, which is why I have tabled these amendments in lieu, and why I will be seeking the opinion of the House on them at the end of this debate, so that we can continue this discussion.

These amendments I now offer to the House contain two very significant changes from those disagreed to by the other place. First, I have removed a provision designed to protect the common frameworks process while it was in progress. It was objected to as it would have created delays and legal uncertainty. I recognise that it was not in the interests of the internal market, so it has gone. There should be absolutely no misunderstanding about that. Secondly, I have changed my approach to the way in which the common frameworks issue should be fitted in to the Bill, now seeking to use mechanisms already in the Bill to achieve that result. Their purpose is twofold: to cure the inconsistency between the Government's support for the common frameworks on the one hand and its promotion of the market access principles on the other—which does not fit in with the Minister's word "complementary" a moment ago—and to provide certainty so that everyone will know what the measure that needs protection is and why it is there.

One of the principles agreed between all four nations when the common frameworks process was set up in 2017 was that, as the devolution settlement required, it allowed for policy divergence where this was within devolved competence. However, a decision to diverge will be agreed under that process only if all the parties to it, including the UK Government, are satisfied after careful examination and assessment of its nature and effect that the decision will not create a barrier to trade across the UK. The Bill's market access principles, on the other hand, operate automatically. As the Bill stands, a measure that gives effect to an agreed decision to diverge can be ignored by traders bringing goods in from other areas. This undermines the opportunity to diverge, rendering it worthless and ineffective. With reference to the Minister's comment on what I was saying about uncertainty last time, my concern is not with traders bringing goods in across borders; they have the protection of the market access principles and their position is plain. My concern is with traders doing business within their own areas, having to decide what articles they could properly and safely put for sale on their shelves. That is no kind of answer.

The effect of the amendments is that the Secretary of State will be required by regulations to direct that the market access principles will not apply to a measure of the kind I have described. The UK Government will therefore be involved at every stage of the process. I stress that the decision cannot be put into effect unless the UK Government have agreed to it, and it is only the UK Government, through the Secretary of State, who can give it the immunity it needs.

I emphasise once again that my intention is not to create barriers. It is about allowing for policy divergence in ways found by this process to be consistent with the internal market. I hope that those noble Lords who have drawn on their long experience of what makes businesses work, which this House values so much during our debates, are reassured on that point. At heart this is an issue about devolution. It was because of devolution that the common frameworks process, and the opportunity for policy divergence, was instituted with the encouragement of the UK Government in the first place. Their support for that process must involve support for policy divergence too.

As we continue our discussions, it may be suggested that what I am looking for could be met by assurances, but we are dealing here with arrangements designed to last for a long time. They need to bind future Governments as well as this one. That is why they must be in the Bill. The process of refining my proposals has been rather like opening a Christmas present buried within layer after layer of paper. Eventually it is revealed, smaller that the wrapping led one to expect, and one wonders why it took so much paper. I am afraid it has taken me some time to reduce my proposals to their essentials, but that is where I am now. I beg to move.

Lord Fox (LD): My Lords, I thank the Minister for clearly setting out his objections to the last set of amendments. In his closing words he said that the Government view the common frameworks process as complementary to the market access principles. Listening to the noble and learned Lord, Lord Hope, it was very clear that there is a discontinuity—a lack of complementariness—between the two positions. As the noble and learned Lord set out, a central feature of the framework agreement is to come to an agreed process for divergence between the four nations, within which the UK has a major role. That divergence is killed off by the automatic nature of the market access principles. That is the central point that the noble and learned Lord's amendments address. In doing so, the new versions of the amendments have taken on board the comments that have come back from the other place, having recognised the level of uncertainty that could have been injected by a previous proposed new clause, which has now been removed. The amendments adopt the regulations within the Bill to facilitate that decision, so that it is consistent with the way that the Bill seeks to operate, but also consistent with the principles of devolution that have served this country so well to date.

Baroness Hayter of Kentish Town (Lab): My Lords, perhaps we need to remember why we are here. It is really quite simple. When the case for Brexit was all about "taking back control", we failed to understand that the Government meant taking control to themselves, even over issues that were fully devolved. However, when the Bill was published—without any involvement from the devolved authorities, remember—we soon discovered that it ran roughshod over devolved competences, as the noble Lord, Lord Fox, said, trumping the common frameworks programme.

I have often wondered whether this was deliberate or an oversight, though the lack of prior consultation suggests the former. However, that makes the statement on the publication of the Bill, on 9 September, signed by the Scottish Secretary but not the Welsh Secretary, and by Mr Sharma and Mr Gove, a bit strange in the light of this Bill. It says that the devolved Administrations will enjoy a "power surge" when the transition period ends.

Let us take that at face value. Perhaps the particular construction of the Bill was clumsy—as an oversight rather than deliberate—and perhaps it is right that the Government did not intend to bring back to themselves all the powers long devolved to the other three authorities, but in that case the amendments tabled by the noble and learned Lord, Lord Hope, would rectify the problem. They would simply restrict the market access powers in the Bill, which of course are only about devolved competences, to those where the four-party process failed to reach agreement.

As the Government are one of those four parties, they will be in a very strong position to revert to the Bill, and to Parliament, for the powers they feel are vital for an internal market on areas where disagreement cannot be overcome. That seems, to this side of the House, a simple, clean solution. It would hard-wire in a common frameworks process which the Government themselves described last week in the latest of their three-monthly reports on the frameworks—reports which, I think, we added to Schedule 3 to the EU withdrawal Bill as a requirement for the Government to publish—as

"an agreed approach to ensuring regulatory coherence"

in devolved areas. That is absolutely spot on—coherence, not uniformity—and that is probably where we are trying to get to. The problem is that, as written, the Bill adopts "uniformity".

The same document, which has just been published, despite having talked about coherence, then asserts:

"Common Frameworks cannot guarantee the integrity of the entire UK Internal Market."

However, the document does not provide any evidence of why the frameworks will not work. It gives no examples of where, within devolved competences, any agreements might not work. Indeed, the Minister, in introducing the debate, again asserted that it would have to be for Parliament alone to decide when the market access rules would not be used, but he did not explain why the four-party process would not be able to deal with that and why they would come to Parliament only when there was a failure to agree. The same document notes the "freezing power" contained in the withdrawal Act, and it also notes that it has never needed to be used, but it fails to suggest where it might be needed.

Therefore, in the Bill the Government are saying that on the one hand the frameworks are very good and have been able to produce coherence but, on the other hand, the Bill allows the market access principles to trump that process, even if it produces agreement.

We have it said before and I say it again: we on this side of the House want an internal market which thrives and serves the needs of business, the professions, consumers and the environment, but it has to be one that respects rather than dismantles devolution. These amendments seem to us to offer the path to achieve that, so we will support the noble and learned Lord when, as I am sure he will do, he asks the House to vote. I hope that in the light of that vote we can, as the Minister suggested, continue the dialogue so that we can reach an agreed position that would safeguard all that has been going on with the devolution settlements and the common frameworks process but, in the last analysis, would of course come back here.

3.45 pm

Lord True (Con): My Lords, once again, I am very grateful to those who have contributed to the debate. Although the cast is smaller, I know that the interest is no less great. The sense of respect for the devolved institutions, which has gone right across your Lordships' debates on the Bill, is important and shared by all of us, however we view the question raised in the amendments.

I also thank all those who have participated in the ongoing dialogue outside your Lordships' House on this matter. Naturally, I will shortly seek to persuade your Lordships not to support the noble and learned Lord's Motion for the reasons I have given, but the strength of feeling expressed in this House and in the other place is testament to the important role that common frameworks play in intergovernmental

working and this country's future outside the European Union, and indeed within the overall structure of intergovernmental relations within the United Kingdom.

The Government are committed to working with the devolved Administrations to deliver these agreements to the benefit of people from all four corners of the United Kingdom, and we welcome the strong support that has been shown for common frameworks by both Houses, not least by the noble and learned Lord, Lord Hope of Craighead, in his noble efforts to unwrap a Christmas parcel. I am sure that the jewel of mutual respect is there, whatever the outcome of the debates on this question.

Common frameworks allow the Government and the devolved Administrations to engage in meaningful dialogue about how all parts of the country can benefit from the new powers flowing from the European Union. I say to the noble Baroness opposite that they are flowing from the European Union. However, common frameworks are primarily concerned with processes rather than determining specific policy outcomes, and as such they do not obviate the need for the market access principles in these areas. I believe it is common ground across this Chamber that it is for the United Kingdom Parliament and its Members from all four nations to have a role in safeguarding a market across all parts of the United Kingdom.

Common frameworks are not intended to be an all-encompassing solution to the maintenance of that internal market. The Government's belief is that additional legislative protection provided by this Bill will provide certainty for the status quo of internal UK trade. Broad disapplication of elements of the Bill risks removing that certainty, which is needed for business and citizens in all four parts of the United Kingdom. Again, I believe that is a common objective. For that reason, we believe both common frameworks and the market access principles—if the word "complementary" is not cared for, I will say "working in tandem"—to be necessary to guarantee the integrity of the entire United Kingdom internal market.

The security that this Bill provides is crucial for the people and businesses of England, Scotland, Wales and Northern Ireland. It is essential that we ensure that this certainty is provided in all areas, including in the devolved policy areas, where powers flow from the European Union to London, Edinburgh, Cardiff and Belfast.

Of course, I hear the arguments and representations put forward in the characteristically modest approach of the noble and learned Lord, Lord Hope of Craighead, but the Government's belief is that we cannot afford to risk denying our citizens the ability to trade seamlessly across the United Kingdom, as they do now. I hope this is something that your Lordships' House can agree with, and I hope that, in order to provide this certainty, the noble and learned Lord will find himself able to withdraw his Motion. In the event that he is unable to do so, the remarks that I made earlier obviously stand.

Lord Hope of Craighead (CB) [V]: My Lords, I am grateful to those who have contributed to this short debate. I would like to pick up on some words that the Minister said in his reply. The words "mutual respect" have characterised the meetings that I have been privileged to take part in as we have moved towards the position that I am adopting. I think it is a very healthy system that allows us to conduct these discussions in such a manner as we seek out the positions that each of us is trying to adopt and possible ways of accommodating them.

At the end of the day, as I have said on a number of occasions, it really is up to the Government. I am looking to them to facilitate in some way the process by which an agreed decision to diverge, which has gone through all the processes of the common frameworks system, may be protected against the sharp edges of the internal market principles. I do not believe that that will in any way disrupt the workings of the internal market; indeed, there are benefits from allowing the devolved Administrations to develop their ideas in a way that is consistent with the internal market by the use of this process and the opportunity for divergence that it allows for.

The Minister has invited me to withdraw my Motion, but in truth I cannot properly do that, given that we are in a process of continuing discussion and we have not yet had a proposal from the Government that provides a solution to the problem that I am seeking to address in my amendments. For those reasons, I wish to test the opinion of the House.

3.51 pm

Division conducted remotely on Motion A1

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Motion A1 agreed.

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4.09 pm

Motion B

Moved by ***Lord Callanan***

That this House do not insist on its Amendment 8L to which the Commons have disagreed, do not insist on its insistence on its Amendments 13 and 56 to which the Commons have insisted on their disagreement, and do agree with the Commons in their Amendment 15C.

15C: Clause 10, page 7, line 25, at end insert—

"(4) Before making regulations under subsection (2), the Secretary of State must seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.

(5) If consent to the making of the regulations is not given by any of those authorities within the period of one month beginning with the day on which it is sought from that authority, the Secretary of State may make the regulations without that consent.

(6) If regulations are made in reliance on subsection (5), the Secretary of State must publish a statement explaining why the Secretary of State decided to make the regulations without the consent of the authority or authorities concerned."

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, this group covers Amendment 8M, which relates to exclusions from the market access principles. The noble Lord, Lord Stevenson, has made changes to the amendment since the debate was last in this House. These move the proposed exclusions text from Clause 10 to Schedule 1 and narrow the list of reasons for derogating from the market access principles to two: environmental standards and protection, and the protection of public health.

While this acknowledgement of the issues created by replacing Clause 10 with a lengthy list of exclusions is appreciated by the Government, it does not address our fundamental problems with this approach. The noble Lord's Amendment 8M would cut right across the Government's objectives and leave businesses exposed to new burdens and barriers. Despite the reduced list of aims, vast amounts of public policy could be excluded from the market access principles.

[Lord Callanan]

I have previously explained that the narrow approach to exclusions that we have taken ensures that certain policy areas can work effectively within the clearly defined market access principles. Many of these, such as the exclusion relating to threats to human, animal or plant health, will ensure that necessary environmental and public health measures can continue to operate under the bespoke constraints necessary in those areas, all without the need for the wide-ranging environmental and public health derogations which the amendment, even in its revised form, would add to Schedule 1.

However, the way in which the noble Lord's list of exclusions would work with the test in his proposed new paragraph is also problematic, as I shall explain. To be excluded, a requirement must only "make a contribution to" the achievement of one of the aims from the list, meaning that a policy need only have an extremely tangential relationship to a social policy objective to be taken out of scope.

The amendment would also lead to uncertainty as to when the market access principles applied, not least by a very unusual use of the term "proportionate". It would fall to courts to determine the relative extents to which different policies met one of the aims, with no consideration of the burdens introduced. This would not deliver the certainty that business needs. The amendment could bring blatantly protectionist measures out of scope of the market access principles because it was unclear what "disguised restriction on trade" meant. We cannot accept protectionism within the UK.

In the previous debate, the noble Lord, Lord Stevenson, also raised the differences with the EU system. It should be quite clear that the EU system is designed for different circumstances—that is, bringing together 27 countries. Now that we are an independent trading nation, the market access principles are naturally more tailored for the UK than they were in the EU system, so it is right that the approach to exclusions in this Bill should be more narrowly focused.

However, I must stress the following point to the House: the market access principles do not prevent the devolved Administrations introducing innovative policies designed to meet their own goals and objectives, including those relating to the environment and public health. We are adamant that requirements which prohibit the sale of a particular good should generally be in scope of the mutual recognition principle; otherwise, we would see a decrease in consumer choice, increased prices and additional costs for business. This is an outcome that I do not believe your Lordships desire, nor is it a good one for the citizens of the United Kingdom.

Of course, if there are initiatives that are of serious concern to the UK Government and the devolved Administrations, we should work together as a United Kingdom to implement them. Furthermore, manner of sale policies, which have typically been the most innovative types of policy, will not be impacted by the market access principles as long as they do not discriminate and are not designed specifically to circumvent mutual recognition. This covers innovative policies such as plastic bag charges and minimum unit alcohol pricing, which many noble Lords have cited. In this respect, our system has much greater flexibility in these areas than the current EU system would allow.

For all these reasons, I strongly encourage noble Lords to reject Amendment 8M.

4.14 pm

Motion B1 (as an amendment to Motion B)
Moved by ***Lord Stevenson of Balmacara***

At end insert "and do propose Amendment 8M as an amendment to the words restored to the Bill by non-insistence on Amendments 8L, 13 and 56—

8M: Schedule 1, page 48, line 47, at end insert—

"5A (1) The United Kingdom market access principles do not apply to, and sections 2(3) and 5(3) do not affect the operation of, any requirements which—

(a) make a contribution to the achievement of—

(i) environmental standards and protection, or

(ii) protection of public health,

(b) are a proportionate means of achieving that aim, and

(c) are not a disguised restriction on trade.

(2) For the purposes of subparagraph (1)(b), a requirement is considered disproportionate if the aim being pursued in the destination part of the United Kingdom is already achieved to the same or a higher extent by requirements in the originating part of the United Kingdom.""

Lord Stevenson of Balmacara (Lab) [V]: My Lords, in moving Motion B1 in my name, I thank the Minister for his full and comprehensive introduction and make it clear that we agree with his Amendment 15C, which we think is very helpful to the overall operation of the internal market Bill. In particular, it picks up points that we have been making in relation to market access. I have just one point of correction to what he said: the changes set out in my Amendment 8M remove the amendment completely from the main part of the Bill. He said Clause 1, but I think he meant Schedule 1; in other words, even more disguised and hidden than perhaps was the impression he gave when speaking.

In opening this debate, I do not want to spend a lot of time on this issue, which is quite narrow. Indeed, the arguments are very similar to those we have already heard from the noble and learned Lord, Lord Hope. The Minister's defence of the current drafting in the Bill depended largely on the often-used threat by Ministers that those who are preparing amendments do not understand the unintended consequences that might flow from their drafting. I suggest to the Minister with some humility that we are not the experts on drafting. If there is an issue here that we should progress a little, we would certainly be happy to work with him and the team of draftspeople in his department to try to make sure that any egregious issues are removed. He drew particular attention to a concern about the phrase used in proposed paragraph 5A(1)(c), which those who wish to bring forward changes to market access would not be permitted to do so if they were disguised restrictions on trade. As I understand it, that comes from the existing WTO regulations and is therefore relatively well understood among those involved in the operation; these are trivial points, however, compared to the main points of principle that he raised.

I want to make three main points. The noble and learned Lord, Lord Hope, has already explained in his amendment that the common frameworks issues he talked about require a market access regime as well; the two are interrelated—almost two sides of the same coin. The devolution settlement has to be observed in both the spirit and the letter of the law. We think that the Bill can both honour and enhance the devolution settlement, provided, first, that we emphasise the common frameworks and the coherence that they can bring to the whole process of a devolved settlement and, secondly, that we do not make the market access principles, which operate automatically, too narrow and too prescriptive. That would fatally undermine the opportunities for devolved Administrations to diverge—if they wish and as agreed by all concerned—in a managed and coherent way.

We have a devolved system of government. That must necessarily imply divergence, so it has to be part of the system. In some way, the argument revolves around how it is possible to frame that managed divergence in legal terms. My Amendment 8M uses derogation powers that are already in the Bill to highlight areas of public good that could benefit consumers, workers and traders. The Minister said there was already coverage on these areas within the Bill, so, in a sense, he is making my point that areas such as public health and the ability of people to work in the environmental areas will be public goods if they can be brought forward. Any sensible Government would ensure that the system made it possible for those who wish to make changes that would raise standards —managed and with agreement—to do so.

The amendment therefore enhances efforts to improve environmental standards and public health; I cannot believe that the Government would want to be against that. It amends a schedule, and does not change any of the main clauses in the Bill. We are talking about trying to find a system for allowing divergence to happen in a proportionate way, which will not in any sense damage the ability of traders to trade but will benefit consumers and workers. It is a very small change. As the Minister rightly said, it has been slimmed down in the process of arriving at this point in the Bill's discussions, and it is very much tied to the amendment that we have just accepted by a majority of over 100 in relation to the common frameworks. I beg to move.

The Deputy Speaker (Baroness Henig) (Lab): The question is that Motion B1, as an amendment to Motion B, be agreed to. I have had no notice of anyone in the Chamber wishing to speak—in fact, I call the noble Baroness, Lady Bennett.

Baroness Bennett of Manor Castle (GP): My Lords, I rise to speak physically in the Chamber for the first time since March, so I hope your Lordships will forgive me if I feel a little rusty. Although we refer to people taking part remotely and those in the Chamber being treated equally for many procedures in your Lordships' House, that is unfortunately not the case with ping-pong. That is why I felt that I needed to be here.

In reflecting on that, I want to comment very briefly on the earlier discussion about procedures in your Lordships' House, because I respectfully disagree with the many people who said that they wanted to go back to how things were before as soon as possible. I think that the remote participation that enables people to participate who, for all kinds of reasons—whether it be disability, caring responsibilities or all kinds of other reasons—may not be able to be in the Chamber is something that we should keep. Of course, remote voting allows a wider democracy, as much as we can, which would surely be a good thing.

I am in favour of Motion B1, in the name of the noble Lord, Lord Stevenson of Balmacara. I will focus in particular on the environment side of it and cite Alok Sharma, the Government's chair of the COP 26 talks, who spoke yesterday at the climate ambition summit. He pointed out that 45 leaders had announced new climate target plans for 2030, 24 had committed to net zero and 20 had talked about strengthening adaptation. But we are still not on track for 1.5 degrees. As we start to gear up for COP 26, we are starting to see the revival of "One-point-five to stay alive". We have a long way to go.

If we look at the situation of the nations of the UK, there is no doubt, sadly, that leadership has often not come from Westminster. On everything from home energy efficiency to plastic bag taxes and bottle deposit schemes—all kinds of environmental issues—leadership has come from the nations of the UK other than England. So, if we do not allow that to happen, we are cutting off the opportunity of progressing faster, which I suggest is not in line with the Government's intentions.

I was speaking at the weekend at an event focusing on the beauty and diversity of the Amazon. There is an innate strength in diversity, in difference, and in different places trying different things and approaches. If you shut that off, as we will by not having this amendment or something very like it, we will actually hamper the efforts on the environment which the Government, I am pleased to say, tell us they are so keen to succeed with.

Finally, I will pick up on the words of the noble Baroness, Lady Hayter of Kentish Town, on our first group of amendments about the "Take back control" issue. When participating remotely, or in the Chamber, I often find myself shaking my head as speakers say, "We are all supporters of the union here". I believe in subsidiarity and in local decision-making, but I will offer some free advice to those who want to keep the existing arrangements. Squeezing people tighter and taking away independence or rights that have been given is not a way for that to continue. In your Lordships' House, we have been awaiting for quite some time the very important domestic abuse Bill, which will bring the idea of coercive control into our law. If we attempt to coerce people and take away their independence and the rights that they already have, I would suggest that it will make them seek more independence.

I regret the fact that Motion B1 has been diminished from earlier, similar versions of the amendment. I regret the loss of animal welfare and cultural expression, but it is crucial that we keep the environmental standards and protection. As the noble Lord, Lord Stevenson of Balmacara, said, how in the middle of a pandemic could we not keep the opportunity for every Government in the United Kingdom to protect the public health of their people as best they can?

Lord Fox (LD): My Lords, I welcome the noble Baroness, Lady Bennett, back to her seat—just in time for tier 3 to arrive. We have again had a short debate. As we have seen the evolution of this argument—in the amendment's approach to common frameworks it is, in a sense, the yin to the yang of the noble and learned Lord, Lord Hope—we are now looking at a different way of trying to ensure that diversity can survive under the automation of the market access measures.

In the past, the Minister has brought to bear the Government's disapproval of the breadth of the exclusions that previous versions of this amendment made. As the noble Baroness, Lady Bennett, pointed out, many of those have now dropped off. So, in a sense, the Government have already pushed this to a narrower set of exclusions. The Minister highlighted his uncertainty around the word "proportionate". Of course, none of us would want to do something disproportionate, but I cannot help thinking that the Government, in all their wisdom and with all their clever legal people, could come up with a frame of words that will prevent hideous problems developing in the courts—so I cannot help thinking that that is something of a red herring.

As the noble Lord, Lord Stevenson, said, this is getting more modest than was previously attempted, but it still has the overriding aim of dealing with the problem which keeps coming up throughout this debate. The Minister has magnanimously said that the devolved authorities are perfectly at liberty to develop new and innovative ways of doing things—so far, so good—and then, of course, the market access principles mean that those innovations will get undercut if someone else in the British Isles is doing it differently. I do not understand how the Minister can keep linking those two sentences without seeing that the one excludes the other. If it does not do it in governmental terms, it will do it in the courts. This will be a creature of the courts, because there will be businesses that will be going at a legal opportunity to get their products into devolved authorities that have sought to raise standards, as they see it.

The issue of minimum-unit alcohol pricing often comes up, and it is quite clear that this legislation will not affect that at all. We are all in agreement there. But if we were seeking to bring that in once this legislation was in place, what chance would it have of surviving the courts? That is why we will support this amendment.

Lord Callanan (Con): I thank everybody who has contributed to what has been a very good, albeit brief, debate. I have listened very carefully to the points that have been raised, and I will respond directly to the points of the noble Lords, Lord Stevenson and Lord Fox. Innovative policy-making relating to public health and the environment will be fully possible under the Bill, within the clearly defined market access principles. Schedule 1 sets out a clear exclusion process for:

"Threats to human, animal or plant health".

There are also several other exclusions relating to the environment and public health: chemicals and pesticides, for example. All of these are drafted tightly to strike the right balance between these objectives and the integrity of the market.

It is also essential to remember that neither of the market access principles affects the devolved Administrations' abilities to uphold and enforce rules governing how consumers use goods. Neither would they prevent reasonable "manner of sale" restrictions, as long as they are not discriminatory. If an Administration wanted to introduce minimum alcohol pricing or the plastic bag charges, they are fully able to do so and can use them to fulfil environmental or public health aims in future; the principles would not be an obstacle to that, as long as those rules do not discriminate. I say to the noble Baroness, Lady Bennett, that she is wrong: if a future devolved Administration wanted to introduce the plastic bag charges, they would be able to do so under these market access principles, as long as they were non-discriminatory.

4.30 pm

We believe that the targeted list of exclusions achieves the right balance, providing certainty about the areas where market access principles would apply while still retaining the ability for the DAs and the UK Government to implement innovative new policies. I hope that all of us in this place agree that the innovation in the devolved Administrations is to be welcomed—but discrimination is not. This Bill provides a means to assure that this is reflected in the operation of our UK internal market.

With that explanation, I hope that noble Lords will be able to support the Government's approach—the noble and learned Lord, Lord Falconer, looks sceptical—to reinstate these original clauses on exclusions in the Bill.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, this has been a very short debate, but, as the Minister has said, it has been quite interesting, and revelatory in some senses. I thank the noble Baroness, Lady Bennett, for speaking in support. I think that I thank the noble Lord, Lord Fox, for his suggestion that "yin and yang" are the words I was looking for in terms of my relationship with the noble and learned Lord, Lord Hope. We are certainly not yin and yang if you consider size or intellectual ability, but, even so, it is a nice thought.

I recognise that the Minister was not going all out to take down the arguments I was making, and I am grateful to him for that; he can sometimes be quite destructive when he does, and it is nice to have the sunny side of him on show today—he does have a sunny side.

I cannot understand why there is such a concern about divergence. For those of us who were born and brought up in Scotland, it is well known that building regulations there are substantially different for not unreasonable reasons: the weather up there is so different from that which one experiences further south. Those regulations were different in Scotland for many years before devolution took place, and have continued to be.

Of course, there are many other areas of difference, right across a range of activity in Scotland: a different legal system, a different religious environment as well as other factors. This has led to different ways in which people operate, trade is conducted, and people shop and carry out their business. The idea that divergence is not already present in the system and not respected as such seems very strange.

I know that the Minister stands by Schedule 1 because he referred to it at length, but those who have read it carefully—I suspect that not many people have read it right the way through because it is dry—will know that, basically, the only real reason for divergence is set out there very clearly. It says that there has to have been a threat to life caused by a "pest or disease"—that is a very wide-ranging thought and a way we can approach it. Nevertheless, that is really the only sure and certain basis under which divergence would be permitted, other than that which already exists.

In that sense, we are on the right track: there could be a better way of formulating that. The schedule contains many other ways of implementing curtailment and restriction that we could use if the wording currently in our amendment is not satisfactory. However, I do not think that the Minister has said anything that would negate our feeling that this amendment, in its essence, is the counterpart to the amendment that we already agreed in relation to common frameworks—and that it would play a necessary part in making sure that devolution continues. I recommend it, and I would like to test the opinion of the House.

The Deputy Speaker (Baroness Henig) (Lab): Members taking part remotely have given their voices in support of this Motion, and I will take that into account.

4.34 pm

Division conducted remotely on Motion B1

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Motion B1 agreed.

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Dobbs, L.
Dodds of Duncairn, L.
Duncan of Springbank, L.
Dunlop, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fairhead, B.
Falkner of Margravine, B.
Fall, B.
Farmer, L.
Faulks, L.
Fink, L.
Finn, B.
Fleet, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Fox of Buckley, B.
Framlingham, L.
Fraser of Corriegarth, L.
Freud, L.
Fullbrook, B.
Gadhia, L.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Goldsmith of Richmond Park, L.
Goodlad, L.
Goschen, V.
Grade of Yarmouth, L.
Greenhalgh, L.
Greenway, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hague of Richmond, L.
Hailsham, V.
Hamilton of Epsom, L.
Hammond of Runnymede, L.
Haselhurst, L.
Hay of Ballyore, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hoey, B.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jay of Ewelme, L.
Jenkin of Kennington, B.
Jopling, L.
Kakkar, L.
Keen of Elie, L.
Kilclooney, L.
King of Bridgwater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Laming, L.
Lamont of Lerwick, L.
Lancaster of Kimbolton, 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.
Lytton, E.
Mackay of Clashfern, L.
Mancroft, L.
Mann, L.
Manzoor, B.
Marland, L.
Maude of Horsham, L.
Mawson, L.
McColl of Dulwich, L.
McCrea of Magherafelt and Cookstown, L.
McGregor-Smith, B.
McInnes of Kilwinning, L.
McLoughlin, L.
Mendoza, L.
Meyer, B.
Montrose, D.
Moore of Etchingham , L.
Morgan of Cotes, B.
Morris of Bolton, B.
Morrissey, B.
Morrow, L.
Moylan, L.
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.
Popat, L.
Powell of Bayswater, L.
Price, L.
Rana, L.
Randall of Uxbridge, L.
Ranger, 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.
Sanderson of Welton, B.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.

Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
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.
Stewart of Dirleton, L.
Stirrup, L.
Stowell of Beeston, B.
Strathclyde, L.
Stroud, B.
Stuart of Edgbaston, B.
Sugg, B.
Suri, L.
Taylor of Holbeach, L.
Taylor of Warwick, L.
Tebbit, L.
Thurlow, L.
Trenchard, V.
Trevethin and Oaksey, L.
Trimble, L.
True, L.
Tugendhat, L.
Ullswater, V.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Vinson, L.
Wakeham, L.
Waldegrave of North Hill, L.
Warsi, B.
Wasserman, L.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Willetts, L.
Williams of Trafford, B.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

4.47 pm

Motion C

Moved by ***Lord True***

That this House do not insist on its insistence on its Amendments 14, 52, 53 and 54 to which the Commons have insisted on their disagreement for their Reason 14C.

14C: Because the Lords Amendments (together with Lords Amendment 55 which has been agreed by both Houses) were only made in consequence of the omission of Part 5 by Lords Amendments 42 to 47 and so have become unnecessary following the Lords non-insistence on Lords Amendments 42, 43 and 46.

Lord True (Con): My Lords, I am introducing a new government amendment, containing new Clause 43A, as well as moving Motions C, D and E, which will rectify the oddities left by the removal of Clauses 44, 45 and 47. Now that we have an agreement in principle with the European Union through the joint committee, as we discussed in the last round of these discussions in your Lordships' House, the safety net clauses are no longer required.

The EU's declaration on Article 10 of the Northern Ireland protocol clarifies that subsidies are within scope of the state aid rules in the protocol only where there is a "genuine and direct link" to Northern Ireland and a "real and foreseeable" impact on trade between Northern Ireland and the European Union. The House has been concerned, as has the other place, about the risk of reach-back; the EU's clarification addresses this. The concern was that a company in Great Britain with only a peripheral link to commercial operations in Northern Ireland could be caught inadvertently by the tests within the protocol's text, which was neither acceptable nor what the protocol had envisaged.

However, public authorities giving subsidies and the beneficiaries still need guidance regarding Article 10 of the protocol. Therefore, new Clause 43A stipulates:

"The Secretary of State must publish guidance on the practical application of Article 10".

The clause requires the Secretary of State's guidance to reflect any relevant decision or recommendation of the joint committee or any declaration made by either party of which the other party takes note. The Secretary of State may update the guidance, for example, to reflect developments in either the joint committee or relevant EU law. Public authorities will be required to have regard to this guidance, helping to ensure a consistent and uniform application of Article 10. This approach is fully in accordance with the United Kingdom Government's commitments under the Northern Ireland protocol and international and domestic law. The new clause is an important part of putting the protocol into effect and for the agreement in principle with the European Union to function.

I know that noble Lords have welcomed progress on this part of the Bill, and I beg to move.

Lord Judge (CB) [V]: My Lords, I speak to Clause 43A. Consistent with the Minister's undertaking last week, this new clause is not tainted with the admitted unlawfulness that marked Clauses 44, 45 and 47. By way of a footnote, in view of the Minister's observation, I will say that those clauses should never have been there in the first place. As the Minister has explained, this clause is concerned with the issuing of guidance by the Secretary of State in relation to Article 10 of the Northern Ireland protocol, and any subsequent implementation of that guidance. Either process must pay full attention to the decisions and recommendations of the joint committee, itself established under Article 164 of the withdrawal agreement. Non-compliance, if it were to arise, would, if necessary, be justiciable.

There is nothing further that I can say in relation to this clause. It seems to be a very sensible solution to a difficult problem.

Lord Newby (LD): My Lords, this is the last knockings on Part 5 of the Bill. It has been a sad and sorry saga from beginning to end. The Government understandably drew huge opprobrium, both domestically and internationally, for being prepared to break the law. They have now withdrawn in the best way they can, but the truth is that they have done so with their tail between their legs. I am extremely pleased that we have reached this point, but sorry that the Government ever put Part 5 in the Bill in the first place and that it needed your Lordships' House to help kick it out.

Lord Falconer of Thoroton (Lab): The noble Lord, Lord True, has been true to his word. He has produced Clause 43A, which does not contain any element of illegality, as the noble and learned Lord, Lord Judge, said. I also agree with the noble and learned Lord that it is a sensible provision and we welcome it. It brings to an end a saga for which this country has plainly paid a price. Everybody commenting on the position of the European Union at the moment is saying that the reason it is currently seeking the arbitral and consultation provisions, and the threshold for the ratchet up, is that it does not trust us—and one of the reasons for that is the internal market Bill and its illegality.

Lord True (Con): My Lords, the noble and learned Lord opposite always has a delightful habit of ending his eloquent speeches with a couple of sentences that I find it hard to agree with, and I do not agree with his interpretation there. But I thank those who have contributed to this short debate. I am grateful for the

[Lord True]
welcome for the Government's proposal—I do not talk about tails between legs—and that the other parts of Part 5, to which your Lordships objected before, have been accepted. As perceived from this side of the House, that was the correct action.

I need not repeat the essence of this. Clause 43A is required in the Bill because, as the noble and learned Lord, Lord Falconer, said, it is an important part of implementing the protocol. The clause places a duty on the Secretary of State to provide guidance. I welcome the fact that the EU has clarified that subsidies are within the scope of Article 10 only under the conditions that I described—a genuine and direct link to Northern Ireland and a real, foreseeable impact on trade between Northern Ireland and the EU. This addresses the risk of reach-back and must be reflected in the guidance that the Government will provide.

I am also, of course, grateful for the remarks of the noble and learned Lord, Lord Judge. In concluding, I will emphasise, as he did, that this approach is fully in accordance with the United Kingdom's commitments under the Northern Ireland protocol and international and domestic law.

Motion C agreed.

Motion D

Moved by ***Lord True***

That this House do agree with the Commons in their Amendment 45C.

45C: After Clause 43, insert the following new Clause—

"**43A Guidance on Article 10 of the Northern Ireland Protocol**

(1) The Secretary of State must publish guidance on the practical application of Article 10 of the Northern Ireland Protocol (State aid).

(2) For that purpose Article 10 is to be read in the light of—

(a) any relevant decision or recommendation of the Joint Committee, and

(b) any relevant declaration that is made in the Joint Committee by either party, of which the other party takes note.

(3) The guidance must be published before the end of the period of one month beginning with the day on which this section comes into force.

(4) A person with public functions relating to the implementation of Article 10 (including functions involving the provision of financial assistance or other subsidies) must have regard to the guidance when exercising such functions.

(5) The Secretary of State may—

(a) revise or replace the guidance;

(b) if satisfied it is no longer necessary, withdraw the guidance.

(6) In this section "Joint Committee" means the committee established by Article 164(1) of the EU withdrawal agreement."

Motion D agreed.

Motion E

Moved by ***Lord True***

That this House do agree with the Commons in their Amendment 47C.

47C: Clause 43, page 35, line 3, leave out paragraph (b)

Motion E agreed.

Motion F

Moved by ***Baroness Penn***

That this House do not insist on its Amendments 48B and 48C to which the Commons have disagreed for their Reason 48D.

48D: Because the Lords Amendments would alter financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.

Baroness Penn (Con): My Lords, the other place has disagreed with Amendments 48B and 48C regarding the power to provide financial assistance which the Bill confers on the UK Government. Once again it has invoked financial privilege. I remind noble Lords that this is not a decision for the Government to make but is independently determined in the other place. It would, of course, be contrary to normal practice for the House to insist on any amendment disagreed for a financial privilege reason.

Amendments 48B and 48C, in the name of the noble and learned Lord, Lord Thomas, required the Government to have the consent of the devolved Administrations before exercising the financial assistance power in devolved areas. As I emphasised last week, this power is additional to the devolved Administrations' existing powers, which I was glad to see noble Lords accept in the debate last Wednesday. It does not override the devolution settlements. I note that the noble and learned Lord, Lord Thomas, has tabled further amendments on this matter and I thank him for discussing these with me in advance. I also thank the noble Lord, Lord Stevenson, and the noble Baroness, Lady Hayter, for their discussions with me on these matters.

Amendments 48E and 48F would require the Government to consult on and publish the principles for investment, and to seek advice from representatives jointly appointed by the UK Government and the devolved Administrations before providing financial assistance in devolved areas. I reassure the noble and learned Lord that, when using this power, we will, of course, work with the devolved Administrations and other key stakeholders throughout the country. As I have mentioned previously, the UK shared prosperity fund provides a more detailed example of how we intend to use the power to provide financial assistance. In doing so, I hope that noble Lords recognise that the process is consistent with the intent of the amendments proposed by the noble and learned Lord, Lord Thomas.

The financial assistance power means that the UK Government can make good on our commitment to level up and create opportunities across the UK in places most in need, such as ex-industrial areas, deprived towns and rural and coastal communities, and for people who face labour-market barriers. We have discussed the UK shared prosperity fund extensively and I reiterate that, while the specific arrangements for the governance of the fund are still being developed, there will be governance structures and the devolved Administrations will have a place within those structures. I hope that noble Lords will accept that this is a clear commitment to work collaboratively and demonstrates that this is not at all "Westminster knows best" or "a Westminster power grab". As noble Lords have mentioned, we have

also worked collaboratively with the Scottish Government, the Welsh Government, and the Northern Ireland Executive for over six years on city and growth deals, and we intend to continue in that spirit of partnership and joint working.

The power in the Bill creates a unified power that operates consistently UK-wide. In exercising that power, we will work with stakeholders, including the devolved Administrations. This will help to make sure that UK Government investments and devolved UK Administration spending will deliver effective outcomes for the people of Scotland, Wales and Northern Ireland. The UK Government are best placed to identify and fund schemes that take into account all parts of the country and across administrative borders to connect all parts of the UK. Indeed, we have shown how crucial the scale and responsiveness of the UK Government support can be throughout this difficult year.

The response to Covid-19 has illustrated how the Government can work strategically and at scale to save jobs and support communities throughout the UK, working alongside the devolved Administrations to keep every citizen safe and supported, no matter where they live. I hope that this will encourage the noble and learned Lord to withdraw his amendment.

5 pm

Motion F (as an amendment to Motion F)

Moved by ***Lord Thomas of Cwmgiedd***

At end insert "and do propose Amendments 48E and 48F in lieu—

48E: Clause 48, page 40, line 41, at end insert—

"(1A) The powers in subsection (1) may only be exercised—

(a) after consultation with the relevant authority on the principles under which financial assistance may be provided by a Minister of the Crown;

(b) after publication of such principles; and

(c) after considering the advice of persons jointly appointed by the Minister of the Crown and the relevant authority for each of Wales, Scotland and Northern Ireland as to the way in which, applying the principles, the allocation of financial assistance respectively to Wales, Scotland and Northern Ireland which could have been given by a relevant authority should be provided."

48F: Page 41, line 10, at end insert—

""relevant authority" means the Welsh Ministers in respect of Wales, the Scottish Ministers in respect of Scotland, and the Northern Ireland Executive in respect of Northern Ireland.""

Lord Thomas of Cwmgiedd (CB) [V]: My Lords, I thank the Minister for the opportunity to have had discussions with her on two occasions. I am grateful indeed. There are three short reasons why I hope that the House will accept Motion F1 and Amendments 48E and 48F, which I seek to move and the compromise within that is intended. Those reasons can be explained briefly as follows.

The first is that the assertion of financial privilege is one to which there are two answers: it is not a financial issue, it is a constitutional and devolution issue. The scope of financial privilege is a question that will need to be discussed further in due course as the precedents on financial privilege need to be considered in the light of devolution. However, this is not the occasion. The issues in relation to devolution are addressed in this amendment in a way that simply seeks to clarify the need for consultation, principles and advice, all of which are so essential to the function of a union, but they do not impinge on the power of the other place.

My second reason for the amendment is that the way in which it seeks to proceed is to set out a principal reason for spending in the devolved areas. The UK Government and the devolved Governments should work together to strengthen confidence both in the Governments and in the union. The clause requires, as before, consultation in establishing the publication of principles and—this is new—the consideration of advice from the devolved Governments in the field where powers have been devolved. This goes nowhere beyond the devolved powers and it seeks simply to uphold the devolution settlement. The keys are consultation, principle and advice.

It is of course for the UK Government to decide whether they will follow that advice, but perhaps I may make three short points. If the advice were to be followed, it would stop the UK going back, as the Minister has observed, to "Westminster knows best." If the UK Government were to follow the advice, it would say that they can work with the Governments that have been elected by the people of Northern Ireland, Scotland and Wales to spend wisely in the devolved fields by accepting the advice of those who know best in the devolved institutions. Secondly, it would also give the spending of those funds a considerable degree of democratic legitimacy by ensuring that the democratic mandate to spend in the devolved fields was heeded. Thirdly, if the advice was followed, spending would be much more efficient, as there should be co-ordination of spending. The real risk of inconsistent and, worse still, competitive spending, would be avoided.

My last main reason is, in short, is that the amendment seeks to lay part of the foundation for the exercise of statecraft, something that is so necessary to ensure the future of our union. The question may therefore be asked: why is it necessary to put this into a Bill? We simply cannot afford the failure of statecraft in relation to the union. Experience has shown that a clear mechanism is the best way of providing for co-operation between the four nations. There can be no more important area in which to do this than in relation to the working together, with a common and unified purpose, to increase the prosperity of each of the four nations, and here I refer in particular to the very deprived areas within those four nations. I beg to move.

Lord Adonis (Lab): I strongly support everything that has just been said by the noble and learned Lord, Lord Thomas, and I hope that my noble friends in the Labour Party will support him in his amendment if he presses it to a vote. The points he has raised are absolutely fundamental to the devolution settlement. The big issue here is what happens in lieu of the big decisions that used to be made about the structural funds. The noble Baroness the Minister said in our last debate that it was the European Union that would decide, which of course was technically true

[Lord Adonis]
because these were EU funds, but the advice upon which projects are prioritised within the devolved Administrations very clearly flowed from the devolved Administrations themselves. If we do not observe that principle in respect of the Shared Prosperity Fund and whatever may replace it over time—the noble and learned Lord, Lord Thomas, has explained that we are putting in place within statute a regime that could now last for decades—what we will be doing is substantially rolling back the devolution settlement.

The noble and learned Lord used a slightly antiquated term, "statecraft", but it is coming back into vogue, because we have so little of it. Indeed, as some noble Lords might recall, the Prime Minister told us some while ago that it would be a failure of statecraft if there was not a deal, which he very nearly railroaded the country into over the past weekend. It would be an equal failure of statecraft if the devolution settlement starts to break down because of irreconcilable differences between the devolved Administrations and the UK Government on fundamental issues relating to the allocation of structural and regional funding within the UK.

The position that we are in, which is why I think it is so important that the noble and learned Lord presses his amendment, is this: can we simply take the rather vague assurances that the Minister has given us today as being sufficient? In respect of the operation of the whole devolution settlement, which is something that one would expect to roll over from Government to Government as a part of our constitution, I do not think that the assurances which have been given as set down in *Hansard* are sufficient. It is important to have them in statute. Thus, I think that the arrangements that the noble and learned Lord has set out in his Amendment F1 are absolutely appropriate to what we are facing in this area.

The other reason is that in my experience, people's past behaviour is always the best guide to their future behaviour. On the basis of the Government's past behaviour, I do not believe that we can accept those assurances as being sufficient. This is the Government that introduced the towns fund under which Ministers themselves could decide on a wholly arbitrary basis that was not related to any objective statements of need, how they would allocated hundreds of millions of pounds—I think in the end billions of pounds under the fund; I have just been told £4 billion—based on arbitrary and essentially political criteria. How can we accept a vague assurance about consultation with the devolved Administrations when we know that that is how Ministers of the Crown have behaved?

It seems to me to be absolutely essential, not simply desirable, that we put into statute the requirements of the noble and learned Lord's Amendment F1. They seek that the Government should make these further investments only after consultation, which is the crucial element of his proposed new wording for Clause 48

"on the principles under which financial assistance may be provided by a Minister of the Crown."

That would set out in law the requirement that there must be consultation on principles.

If I have a concern about the noble and learned Lord's amendment, it is that it is too weak. This is the classic problem when one starts to compromise. You end up by giving up too much ground. As I read it, I think that the wording of his amendment is too weak because it requires consultation on principles. On my reading of the amendment, it does not require the consent of the devolved Administrations to disbursements that are made in respect of additional investments like the Shared Prosperity Fund.

I will put this to the noble and learned Lord: what would happen if, having consulted, the United Kingdom Government do what they now seem to do routinely—the Prime Minister has told us that he does not believe in devolution—and simply override the view of the devolved Administrations and decide on a political basis to make what are essentially politically motivated investments anyway?

I hope the noble and learned Lord can disabuse me, but my reading of the wording of his new amendment is that the United Kingdom Government would, having consulted, none the less be able to ride roughshod over the devolved Administrations and decide what they want to do for political reasons in London and Westminster. The noble Baroness said—we liked her words—that she was seeking to give backing to the principle that it is not the case that Westminster knows best; my reading of the state of the law, which is what will matter on these things, is that it would be perfectly okay for future Governments to say not only that Westminster knows best but that the Conservative Party knows best and will distribute funding in Scotland, Wales and Northern Ireland in respect of Conservative Party priorities and not any priorities agreed with the devolved Administrations.

I strongly support the noble and learned Lord's amendment. It goes to the heart of what will happen to devolution after Brexit. My concern is that, in the process of compromising as this Bill has gone through, the amendment is too weak to deliver the objectives which the noble and learned Lord so rightly set out.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, I have had three more requests to speak. I will take them in order: the noble Lord, Lord Liddle, the noble Baroness, Lady Bennett of Manor Castle, and then the noble Baroness, Lady Noakes. I call the noble Lord, Lord Liddle.

Lord Liddle (Lab): My Lords, the serious point here is whether responsibility for economic development measures, which are the purpose of the shared prosperity fund, will be devised, agreed and undertaken with the consent of the devolved Administrations and devolved bodies in England.

Last time I spoke on this, the Minister claimed that the distribution of EU funds was decided in Brussels. That is not the case, as she well knows. As I am sure the noble Lord, Lord Callanan, would confirm on the basis of his great experience of European matters, the EU established criteria against which funds should be spent and rules for determining the areas of greatest need, which were based on the relative GDP of an area in the European Union—which areas were

Objective 1, which were Objective 2, and all the rest. It did not decide on individual projects. That was never determined in the Commission.

The way individual projects were decided under the structural funds—as I think Conservative and Labour Governments have practised since the 1990s—was on a bottom-up principle, which I think the noble Lord, Lord Heseltine, probably started off agreeing with. If we were to have effective economic development, it had to have the buy-in of local areas, and of the nations when we had devolution. The best way to do this was through mechanisms that brought together locally elected people with businesspeople in bodies at local, regional and national levels to determine which projects should be prioritised.

As I understand it, the present proposal is that, instead of this devolved system, which has worked reasonably well over the past few decades, this Government want to take power to centralise decision-making. The precedent for this—as my noble friend Lord Adonis mentioned—is the towns fund, which is a completely centralised pork barrel dished out to Members of Parliament representing constituencies that the Conservative Party has recently won. That is what the towns fund is. I know from my own county, Cumbria, that Carlisle, Workington and Barrow will be recipients of towns fund money. Why? Yes, they have great needs, but it is because they have recently elected Conservative Members of Parliament.

5.15 pm

Now we are told that we will have a levelling-up fund as well as a towns fund, and this shared prosperity fund. These are significant amounts of money, which Ministers will decide and civil servants will implement. What will the role of local bodies be? For instance, I noticed that when the Minister was talking about her plans to consult people, there was not a single mention of the role of local enterprise partnerships in England, yet they were the great innovation of the coalition in 2010. What has happened to them?

There are also the mayoral authorities and the devolution of economic powers to mayors; many of us on the Labour side were strong supporters of this, but George Osborne also drove it very strongly with the proposals for the northern powerhouse. I heard nothing from the Minister—perhaps she will come in on this and tell me I am wrong—about the northern powerhouse, what mayors should be doing or what the role of local enterprise partnerships should be. I find all this very puzzling.

This is extremely serious when it comes to the nations of the United Kingdom. The biggest beneficiary of the proposals the Government are insisting on pushing through will be the Scottish nationalists. They will say that this is the Westminster Government taking back their spending powers and instituting a totally centralised system, when we know from experience all around the world that centralised decision-making on economic development questions simply does not work. I ask the Minister to think again.

Baroness Bennett of Manor Castle (GP): My Lords, I will speak very briefly in favour of Motion F1 in the name of the noble and learned Lord, Lord Thomas of Cwmgiedd. I thank him for his strong and determined pursuit on this issue over the many stages of this Bill. I join the noble Lord, Lord Adonis, in hoping very much that we will see our Opposition Front Benches support this and push it forward.

I will refer to many of the same issues that I raised on Motion B; we are talking about local control and local prioritising, as the noble Lords, Lord Adonis and Lord Liddle, have said. Without this amendment, this Bill would take financial control away from the devolved Administrations—money is power, as we know. I think it was in Committee that I raised the phrase "pork barrelling", which has reappeared again and again. This is heading towards an American-style politics, and we have many reasons why we would not wish to head in that direction.

This means in practice that if you have, as we do, an Administration in Westminster who are keen on building new roads—even though they just create more air pollution and new traffic—and airport expansion, and not on spending on nature, that priority will be forced on to local devolved Administrations.

I slightly disagree with the noble Lord, Lord Liddle, who held up as a model local enterprise partnerships and the previous model under the coalition Government; business and elected people is one partnership, but I would like to see something which is much broader and takes in all elements of the local community.

I have been seeing a great rise in enthusiasm across many parts of government for deliberative democracy, for the climate assembly and the people's assembly approach—the chance to bring together representative groups of people to make decisions. Given that increase in enthusiasm, I would like to see it written into the Bill. Perhaps we will pursue it in the future.

I come back to my point from the debate on the previous amendment about the issue of coercive control raised by the Domestic Abuse Bill. That explicitly looks at financial control as a way in which people in households exercise unequal control. I hope that your Lordships' House would agree that in an ideal household, everyone has a real and equal say in the spending of financial resources and a real chance to have their say. I would be interested in the noble and learned Lord's comments on this; the noble Lord, Lord Adonis, said that this was in consultation. I agree that we should have the word "consent" in this amendment. We are talking about democracy, about people having their say and about how we would like to see our nations run.

Baroness Noakes (Con): My Lords, when the Minister introduced the Motion, she explained clearly that the other place had claimed financial privilege and that it was customary for this House to respect that decision made by the Speaker. The noble and learned Lord, Lord Thomas of Cwmgiedd, said that this was not a financial issue. I respectfully say to the noble and learned Lord that it is not for this House to determine whether or not it is a financial issue. As I understand it, it has been accepted by this House for a very long time that the final arbiter of what is or is not a financial issue for which privilege can be claimed is the other place, through its Speaker. If we continue to disregard the Commons claim of financial privilege in

[Baroness Noakes]
relation to amendments we send to the other place for consideration, we not only show a lack of respect, particularly to the Speaker, but might be starting on a route to a constitutional clash with the other place, which would be most unfortunate.

When I sat where the noble Baroness, Lady Hayter, sits, many years ago, we often faced financial privilege being invoked against amendments we were pleased with ourselves for having sent back to the other place for consideration, but we always respected that decision when it came back. I hope that the noble Baroness, Lady Hayter, will continue that tradition in this place. Does the Minister know of any precedence for this place insisting on its amendments not once but twice in the face of a financial privilege claim by the other place, and does she agree with me that this is not a path down which this House should go?

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): Does anyone else in the Chamber wish to speak?

Lord Fox (LD): There is almost no one left in the Chamber who has not spoken. This has been an interesting debate and, no doubt, the Minister is carrying away lots of advice from some of the Benches. I thank the noble Lords, Lord Adonis and Lord Liddle, for their passion. If that passion is matched by votes in the event that the noble and learned Lord, Lord Thomas, decides to ignore the advice of the noble Baroness, Lady Noakes, and press this to a vote, I will have more excitement because otherwise, it is merely a rhetorical gesture.

The noble and learned Lord set out his view on devolution. It is quite clear, as was set out a number of occasions, that in the structural fund process, which this will herald the replacement for, the devolved authorities were in the driving seat of deciding where and on what the money was spent. It is not clear from anything the Minister said today, or in answer to questions last time, that the Government will not seek to impose things on the devolved authorities. The Minister said there would be governance structures; it would be interesting to hear how those governance structures will be introduced and what the Government envisage. In other words, do central Government have the veto in deciding what goes where? In the end, that is the difference between this being genuinely consultative and, as we have heard described around the House, a Westminster-knows-best process. Consultation is fine but only if it is adhered to.

My final point on the quantum of money and its distribution comes back to a question I asked earlier. I think the Minister said that the amount of money envisaged to go into the shared prosperity fund is equivalent to that which came through the structural fund. The Minister also indicated a much broader remit for spreading that money around than was the practical reality of the structural fund. How will the Government manage the process of certain areas that have been particularly well funded through the structural fund, such as Cornwall and Wales, getting less money if there is no increase in funds and they are spread more widely? Furthermore, the European Union distributed that money using classifications of need, so how will the UK Government develop those? Do the Government envisage that they will be different, and can they undertake that they are transparent?

In conclusion, if the noble and learned Lord, Lord Thomas, decides to call a vote, we on these Benches would support it, but there are a lot of questions we would be grateful if the Minister could answer.

Lord Stevenson of Balmacara (Lab) [V]: My Lords—[*Inaudible*]—on earlier discussions around this issue and the issue that will come up in the next group of amendments on state aid and spending as a result of moneys which may be available to support that. We should pause and take note of the fact that the noble and learned Lord, Lord Thomas, has engaged with this issue again despite the view taken in the other place that it is a financial privilege. The noble Baroness, Lady Noakes, is right in saying we are in a difficult area. I am not sure how the comments from the noble and learned Lord, Lord Thomas, will take him forward. He certainly has a point, but I do not think this is the right amendment or place to explore it. It needs a wider perspective. Many of these issues date from time immemorial; it is important to respect them and understand where they come from, but they should not block debate and discussion on key issues.

The issue the noble and learned Lord is raising, which has also been picked up the Minister, is how, in the future, possibly using statecraft—whatever that is—we will manage spending in the devolved areas, which are not reserved, when the funding mechanisms are different and have to be adapted to meet current arrangements. There are issues that will need to be addressed in the future, but we covered a lot of ground in earlier debates, and I thought the points made by the Minister on the shared prosperity fund were sufficient to ensure that we do not need to go back over this again. It is not our view, as Her Majesty's loyal Opposition, that we need to divide the House on this issue again.

If the issue is common between us, we need to understand where we can get to in respect of comments made from the Dispatch Box. The noble and learned Lord, Lord Thomas, made a number of good points and asked a number of questions, and I am sure the Minister will respond to them. I do not think the points added by my noble friends Lord Adonis and Lord Liddle vitiate that approach; they made a good case that we will need more in this area in the future, but this is not the right amendment to take us down that route.

5.30 pm

I would like to make a point about current problems I have observed from my interest in Erasmus+. I asked the Library to do a bit of work for us and it has been very revealing. We have a good example of something that is definitely going to cause difficulty. I do not expect the Minister to have all the answers, but I pose the questions because they are a good example of the issues being raised here.

Looking at the way in which Erasmus will go forward, it is quite likely that the final result of the current discussions in Brussels will be that we will no

longer be able to apply to it. Or will we? Would it be possible, for example, for Scotland, Wales and Northern Ireland to be individual members of Erasmus schemes, even though the UK is not part of that? I do not think we know the answer but that would certainly be of interest.

This issue has received a lot of attention in Northern Ireland. It has not been dealt with in this Bill, but as I understand it from the Library, it looks as though students in Northern Ireland—whether from the Republic of Ireland or from the United Kingdom—will be eligible to apply for Erasmus+. Funding will come partially from the Republic of Ireland but also from the institutions themselves and the EU. That puts Northern Ireland in a different place in relation to the protocol. It is certainly going to make a difference to the education that will be provided in Scotland, Wales and England if that goes ahead and other areas do not.

It is well known that discussions are ongoing between England, Wales, Northern Ireland and Scotland, about how, if necessary, an Erasmus+ replacement can be put forward. It seems from the latest information I have that it would be done through the powers in this Bill. The complaint that I am hearing—and not just from one source—is that the arrangements for the schemes being proposed by the UK through the Department for Education and Skills will not be sufficiently recalibrated to suit Scotland and Wales. That is not a very satisfactory situation.

I am not going to make any large claims on this—it is not an issue for today—but it is a good example of the problems that will be caused if we do not have sufficient regard to issues that are not reserved and can be deployed by the devolved Administrations. Their history has involved spending in these areas, but the UK Government now think they have a right through this Bill to make decisions which may adversely—or in other ways—affect future generations of students. It is a big problem, and the Minister should reflect on that when she responds.

As the noble and learned Lord, Lord Thomas of Cwmgiedd, said, we need to think harder about how and where we operate—we should not just be thinking about a consultative, consent-seeking mode. We should be thinking harder about what works best when done from the bottom end of the prospective policy, what works best jointly through common frameworks or market access principles, and what has to be done by the UK. I am not sure we have quite got to the bottom of that in these debates.

Baroness Penn (Con): My Lords, I thank all noble Lords for their contributions to a debate that was slightly longer than the one we had during the previous round of ping-pong. I will address the points made by the noble and learned Lord, Lord Thomas of Cwmgiedd, and in doing so I hope to address those made by other noble Lords too.

On financial privilege, I very much welcome my noble friend Lady Noakes saying that this is not a decision by the Government but one taken by the Speaker in the House of Commons. I do not have an answer for her on whether there are any precedents for twice resisting financial privilege as a reason given by the Commons, but it must be highly unusual. This is not the place to raise further constitutional questions in bringing that principle into doubt in this Bill.

The noble and learned Lord talked about a principled basis for the spending powers being taken through this Bill. I completely agree with him on that. He spoke of consultation, the establishment of principles and advice from jointly appointed advisers. We do not propose a structure involving jointly appointed advisers, but we do plan to have the devolved Administrations represented in the governance structures for the fund. I apologise to the noble Lord, Lord Fox—I cannot give further details of how that will work at this stage; we will work on that with the devolved Administrations. There are further stages to come in the development of the shared prosperity fund, its governance and the principles around it, after this debate and in future. As I have said to noble Lords before, the fund will not be introduced until the following financial year, which gives us time to work through some of these details.

I hope I have made it clear to noble Lords that the Government have already been engaging in consultations on the shared prosperity fund. To date, we have conducted 25 engagement events across the UK, attended by over 500 stakeholders, including the devolved Administrations. The noble Lord, Lord Liddle, made a good point about LEPs and mayoral authorities—of course we will want to consult and collaborate with those organisations as well as the devolved Administrations as we take these proposals further. Those mentioned at the Dispatch Box were not an exclusive list of those whom we wish to engage, but the debate has focused very much on the question of devolution.

As for the establishment of principles, raised by the noble Lords, Lord Fox and Lord Liddle, and others, there is not a huge amount of disagreement here. The EU set the terms and conditions for investment in the UK as well as other member states, with which the UK Government and the devolved Administrations alike had to comply. Devolved Administrations and other areas were then responsible for managing EU funds in those projects. The idea of setting out principles in a framework and then collaborating in local delivery is very much something we wish to take forward. We have set out some of those principles already in the heads of terms for the shared prosperity fund that we published at the spending review. We have said that a much more detailed investment framework will be published in the spring, following further discussions.

Regarding the focus of that investment, I would have thought the noble Baroness, Lady Bennett of Manor Castle, would welcome our saying at the spending review that investment should be aligned with the Government's clean growth and net zero objectives. Those are the kinds of principles we have already set out and that we want to see in the investment from these funds.

On the establishment of principles and the conduct of consultations, the Government and noble Lords are rather in agreement. The noble Lord, Lord Fox, asked about the quantum and the distribution of funding. Again, I apologise and will have to disappoint him slightly. I said at the spending review that the

[Baroness Penn]
quantum will ramp up to £1.5 billion a year, I think, to match that commitment to, at minimum spend, the previous levels. I also referred in the last debate to our setting out certain commitments in our manifesto that will guide us in future. But there is more work to be done on the detail—from taking the heads of terms to the investment framework—to get the kind of answers that the noble Lord is asking for.

I have mentioned some of the details of the shared prosperity fund, and I also talked about our approach to city deals. I gently disagree with certain noble Lords' use of "pork-barrel politics" terminology. I point to examples of our trying to take a collaborative approach—a principles-based approach from the centre, while also working with those on the ground regarding their needs. That is very much the approach we plan to take with the shared prosperity fund.

I am afraid that I will have to take away the concerns of the noble Lord, Lord Stevenson, about a possible replacement for Erasmus and how that might operate. Again, this is an example of the fact that the detail of this matters. The Government take this very seriously. However, we disagree on some points. This power will be used for the shared prosperity fund and may be used in other areas. We want it to be flexible enough for the UK Government to respond quickly and at scale to investment challenges and opportunities. It is not practical to set out a single plan for investment in legislation now, which is why, for the shared prosperity fund, we will set out plans and collaborate with the devolved Administrations as we will have developed that. In other areas in future—the noble Lord mentioned Erasmus, for example—we will take a similar approach.

I hope that the noble and learned Lord, Lord Thomas, will feel able to withdraw his amendment although it did not sound as though he was minded to.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): I call the noble Lord, Lord Adonis, to ask a short question for elucidation.

Lord Adonis (Lab): I want to ask the Minister a very specific question. She talked about consultation, but will she undertake on behalf of Her Majesty's Government to commit that they will not make investments under the shared prosperity fund, or any of its successors, in the territories of the devolved Administrations without their consent? This is about not just consultation but consent. Further, does she realise that, if she does not do so, none of the other assurances that she has given is worth the paper they are written on?

Baroness Penn (Con): I believe that this issue was the subject of the amendments tabled by the noble and learned Lord, Lord Thomas, in the previous round of ping-pong. Those amendments were sent to the Commons and the Commons rejected them, so we are discussing a new set of amendments in this round of ping-pong. This question was dealt with in the previous round and is, as the Speaker of the House of Commons determined for previous amendments, subject to financial privilege.

Lord Thomas of Cwmgiedd (CB) [V]: I thank all noble Lords who participated in this debate—particularly the noble Lords, Lord Adonis, Lord Fox and Lord Liddle, and the noble Baroness, Lady Bennett of Manor Castle—which has lasted slightly longer than I anticipated.

The debate on both this occasion and previous ones has centred on the question of financial privilege. I am very grateful to the noble Baroness, Lady Noakes, and the noble Lord, Lord Stevenson of Balmacara, for their observations on the uncharted territory into which we might be moving. It is important for the future to work out the way in which ancient principles may no longer be applicable to constitutional issues if we are to keep our union together.

In looking at this whole series of debates together, there has been another consideration. At least there is now a much greater understanding of the importance of respecting the devolved settlements and devolution. I was heartened when the Minister referred to an abandonment of "Westminster knows best". That is progress indeed. I have also taken the Minister's assurances into account. As one looks at the debates in the other place on the previous debates in this House, it is clear that those from Edinburgh, Cardiff, Belfast and other places within those three nations, pay particular attention to what has been said. I am glad the Minister has given assurances in relation to principles of consultation and heeding advice.

It is a question of weighing up whether putting a structure into the Bill in the circumstances I have outlined would be a sufficient safeguard. Or is there a better safeguard: that is, the deterrence of the catastrophic result for our union if the Government did not adhere to the principles that have been explained? It would be catastrophic not only for the union but for trust in government if there was ever a hint of unprincipled distribution or application of these funds—[*Inaudible.*]—and of the pork barrel.

Therefore, with considerable hesitation, but bearing in mind that deterrence is a strong way of ensuring people keep to their principles—possibly stronger than structures in some places—with great reluctance I beg leave to withdraw this amendment.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): Is it your Lordships' pleasure that Motion F1 be withdrawn?

A noble Lord: No.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): You wish to test the opinion of the House? The Question will be decided by a remote Division. I instruct the clerk to start the remote Division.

Baroness Penn (Con): My Lords, I believe the clerk will give us some advice on how to proceed in hybrid proceedings in these circumstances. I suggest we adjourn for five minutes until we get that advice on how to proceed.

5.46 pm

Sitting suspended.

5.52 pm

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, the Hybrid Sitting of the House will now resume. In accordance with paragraph 93 of the Procedure Committee guidance, leave to withdraw cannot be objected to. Therefore, motion F1 is withdrawn.

Motion F1 withdrawn.

Motion F agreed.

Motion G

Moved by ***Lord Callanan***

That this House do not insist on its Amendment 50C to which the Commons have disagreed for their Reason 50D.

50D: Because, while the Commons agree to Lords Amendment 50B, it is not appropriate to link the operation of the reservation proposed by Clause 50 to Common Frameworks.

Lord Callanan (Con): My Lords, I turn once again to the thorny issue of subsidy control. I will begin by addressing Amendment 50E from the noble Baroness, Lady Finlay, before moving on to Amendment 50F from the noble Baroness, Lady Bowles.

I start by saying how pleased I am that we have reached agreement in both Houses on the necessity of Clause 50, which is, of course, the reservation of subsidy control. I welcome the agreement that we should continue the UK-wide approach, which this reservation now confirms in law. However, despite both Houses agreeing to the principle of the reservation of subsidy control, concerns remain about the process for reaching an agreement with the devolved Administrations on designing our future approach.

We recognise the importance of working constructively and co-operatively to design a unified approach that meets the needs of the UK economy. Both Houses supported the Government's amendment to create a specific duty to consult the devolved Administrations on any response to the forthcoming public consultation. This will bolster the ongoing engagement that already exists between the Government and the devolved Administrations, and it ensures that, at the critical decision point for our future regime, the devolved Administrations will have advance sight of, and the opportunity to comment on, the Government's conclusions.

The amendment proposed by the noble Baroness, Lady Finlay, would provide a different process for working, through the common frameworks programme. This amendment, like the Government's amendment that both Houses have now approved, concerns the period between now and a decision on the design of our future subsidy control approach.

The noble Baroness's amendment reflects the recent proposals put forward by the Scottish and Welsh Governments. While we are grateful for their constructive engagement on this issue, the Government do not believe that this approach is suitable. I emphasise once again that state aid has never been included in the common frameworks programme. The common frameworks programme was designed to operate in policy areas where regulatory powers previously held at EU level intersect with devolved competence.

As I have said many times to your Lordships' House, state aid has always been reserved. The devolved Administrations have never previously been able to set their own subsidy control rules. This was covered of course by the EU state aid framework. Therefore, the approach proposed in this amendment would, in our view, not be appropriate. Indeed, by accepting the reservation clause both Houses have confirmed the position that subsidy control should not be devolved. Therefore, it is not eligible for inclusion in the common frameworks programme.

The practical effect of the amendment would be to delay the agreement and implementation of any new UK-wide approach. Such a delay, with the unacceptable uncertainty it would create for business on our future approach, would come at a time when the Government are focused on supporting the UK's economic recovery.

In the previous debate, the noble and learned Lord, Lord Thomas, queried whether this reservation would cut across part III of Schedule 5 to the Scotland Act. I reassure noble Lords that the purpose of this reservation is not to affect devolved competence on other issues, but to allow for the provision of a single national subsidy control regime.

As I have said previously, there has sometimes been a misplaced conflation between the devolved spending powers and the overall system that regulates the potentially harmful and distortive effects of this spending. It is important to note that these are two distinct and separate responsibilities. All UK public authorities are and will remain responsible for their own spending decisions on subsidies, for how much, to whom and for what, within any subsidy control regime. I hope that noble Lords agree that the Government's Amendment 51B to consult the devolved Administrations is the best way to ensure that we reach a collective and timely agreement on the future of the UK's approach to subsidy control.

I turn now to Amendment 50F from the noble Baroness, Lady Bowles, which seems to try to determine particular aspects of the UK's future approach. By pre-empting the outcomes of the forthcoming consultation, the amendment would limit Parliament's ability to legislate on subsidy control in future. The effect of the amendment would be that the Secretary of State could not make changes to the tests for a harmful subsidy, for remedies, for the scope of exceptions and for the conditions or time limits associated with such subsidies.

It is important to note that most of the elements referenced in this amendment are aspects of the state aid rules. As the noble Baroness will know from her participation in the recent SI debate on this matter, the current state aid rules will not apply to the UK from 1 January. The State Aid (Revocations and Amendments) (EU Exit) Regulations, which were passed in both Houses, provide absolute legal certainty on this point, so it is unclear what the noble Baroness is trying to achieve in trying to prevent the Secretary of State making changes. Most of the elements referenced will not exist in UK law from 1 January, apart from in a

[Lord Callanan]
more limited way under aspects of the Northern Ireland protocol. "Approvals", for example, is a concept that does not exist under WTO rules, which the UK will continue to follow from 1 January.

As such, and as I hope noble Lords will understand, I cannot support the amendment. It would be inappropriate to determine particular aspects of the UK's future approach or to seek to limit the Secretary of State's ability to design those aspects at this stage. Through the forthcoming consultation, the Government will develop the details of any future domestic subsidy control regime, including the appropriate definitions and mechanisms for oversight. Should the Government then decide to legislate, these proposals will of course be brought before this House and the other place. I reiterate that the purpose of this reservation is to ensure that any future legislation is a matter for the UK Parliament to determine, and that if any legislative regime is introduced, following the agreement of both Houses, it would apply to the whole of the United Kingdom.

For all the reasons I have set out, I cannot accept Amendment 50F from the noble Baroness, Lady Bowles. Moreover, I cannot accept Amendment 50E from the noble Baroness, Lady Finlay, as it is not appropriate to link the operation of the reservation proposed by Clause 50 to common frameworks, and as we have addressed the concerns in Amendment 51B. As such, with this explanation, I hope that the noble Baronesses will not press their amendments.

6 pm

Motion G1 (as an amendment to Motion G)

Moved by ***Baroness Finlay of Llandaff***

At end insert "but do propose Amendment 50E in lieu—

50E: Clause 50, page 41, line 27, at beginning insert—

"(A1) Subsections (1), (2) and (3) shall take effect when the Welsh Ministers, the Scottish Ministers and the Northern Ireland Executive have agreed with the Secretary of State a common framework applicable to the United Kingdom to regulate the provision of subsidies by a public authority to persons supplying goods or services in the course of a business or, if agreement cannot be reached, 18 months after the passing of this Act.""

Baroness Finlay of Llandaff (CB) [V]: My Lords, I shall speak to Motion G1 and move my Amendment 50E to Clause 50. At this stage I am minded to seek the opinion of the House, particularly because I wonder whether the House wants to have a conscience vote on some of these issues. I have found the Government's response to our deliberations worrying. I remain concerned that the damage to the union that will come about as a result of their refusal to commit to a process of codesign of a future subsidy regime will come back to haunt us all.

We are of course a revising Chamber. We asked the Commons to think again, and after many hours of debate we gave clear messages through large majorities on key aspects of the Bill. We have seen some concessions and they were essential changes, but the huge problem of the current approach to the devolved Administrations remains unresolved. Given the Government's current difficulties with the pandemic and unknowns over the end of the transition period, less than three weeks away, I fear that any stand-off with the devolved Administrations will compound and massively magnify them by fuelling the break-up of our union within only a few years. I say this because, as someone living in Wales and with family in Scotland, I see the Bill acting as a recruiting sergeant for separatist movements.

It is imperative to recognise the common frameworks, and we have signalled that clearly. As part of "taking back control", the devolved institutions must have at least as much latitude—or call it "control"—as they felt they had within the EU to deal with the question of state aid. To establish durable intergovernmental working with the devolved Administrations, there must be clarity and certainty that the differing needs across the UK will be acknowledged and are seen as a joint responsibility that listens from the ground up and gives decision-making to the devolved Administrations.

As I understand it, neither Parliament nor the devolved Administrations had legislated on state aid in the past as these decisions were taken at EU level and regulations were directly applicable. Now that the EU mechanisms have been removed, it is still unclear where the decision-making now happens. State aid was not on the list of reserved powers and it has never been tested in the courts; indeed, such a test would do untold damage to relations between the constituent nations of the United Kingdom.

I hope I misheard the Minister, or that it was a slip of the tongue. If I heard him say "dissolved competence" instead of "devolved competence", I am really worried.

My noble friends and I have listened to the objections that three years is too long to wait to put a framework in place, so we have reduced it to 18 months and I am currently minded to seek the opinion of the House on this. Eighteen months is scarcely longer than it would take the Government to consult on a framework and bring forward the legislation to enact it. This could be far speedier should the Government accept the offer from the Scottish and Welsh Governments to proceed rapidly on developing a clear process for them to be part of the codesign of state aid, establishing the consensus through a seat at the table from the outset of such deliberations.

Of course, I share the House's clearly stated support, restated again today, for the common frameworks process. That is essential, and I do not wish to jeopardise that in any way, as we must move forward together. Yet I believe that the Government will try to say that state aid is already reserved—in fact, I believe that is what I have already heard—and that to include it in the common framework process might somehow jeopardise that position of constitutional principle.

I would be very happy to accept a clear assurance that the Government will make every effort to ensure that the consent of the devolved Governments to a subsidy regime will be secured and will make a statement to Parliament when introducing the necessary legislation if they should override that process. To summarise, I believe that this House will want to hear that the Government will seek to agree with the devolved

Governments any new subsidy framework and will explain to Parliament whether they have succeeded or not and, if not, why not. I believe that that is the minimum we can expect. I beg to move.

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, I will speak to my Amendment 50F and Motion G2, which I may wish to move. I also support Amendment 50E and Motion G1. Amendment 50F looks to the stage at which there may be changes to state aid provisions, whether that be changes in definitions, remedies, or the scope of exemptions, or introducing conditions or time limits on approval. I agree with the Minister that at the moment they are gone, but might not alternatives be introduced, or some aspects reintroduced? I think that would also constitute a change.

The EU state aid provisions were indeed the subject of a statutory instrument recently, and they end at the end of the transition period. But, as the Minister has informed us previously, the UK will follow WTO rules and consult and report on whether any wider scope is to be introduced. If the outcome is a recommendation for going wider—some kind of policy change—it begs the question of how it will be introduced.

My proposal is not made instead of consultations and approvals with the devolved Administrations, which we support; it is in recognition that the full range of public authorities and businesses are affected wherever they may be. Therefore, the detail of how any post-consultation policy change is implemented is of significant interest.

The withdrawal Act was used to make the changes that happen at the end of the transition period. But it would seem inappropriate for that to be used for any new policy. A new policy other than moving to the WTO default should surely have the scrutiny of primary legislation.

I know the Minister may say that how policy is to be implemented can be a point in consultation, but my submission is more constitutional than convenience. Parliament should be able to scrutinise and amend, and to spot those weaknesses and problems that this House in particular has the experience to iron out, especially at the first time around of making independent, post-Brexit state aid rules.

Therefore, my Amendment 50F seeks to put on the face of the Bill that changes to the test for harmful subsidy remedies, the scope for exemptions or the conditions or time limits on approvals may not be done by regulation. I do not seek to prevent policy change being made by the Secretary of State; I am just saying that, at least first time around, it should be made by primary legislation. It may be that the Minister can put my mind at rest, and I await his response with interest.

Lord Thomas of Cwmgiedd (CB) [V]: My Lords, I will speak briefly in support of the eloquent and persuasive speech of my noble friend Lady Finlay in moving the amendment in Motion G1. First, I thank the Minister for his letter of Friday, which makes clear the Government's wish for a constructive and collaborative relationship with the devolved Governments on state aid control and that the clause does not cut across the power of the devolved Governments to provide state aid or to determine how it is provided; it seeks only to restrict the distortive effects. With those thanks comes one short observation and two questions.

My observation is this: the proposal is very modest and not to the devolved institutions' liking because, at the end of the period put forward in this amendment, it would nevertheless reserve a matter that the devolved Governments are right in saying is devolved. Of the many strengths of the proposal, it would provide a means for agreeing the regime and ensuring that it does not go forward without any risk of unilateral attack by a devolved institution. Surely the prize of agreement and strengthening the union is worth having.

I now pose my two questions to the Minister. First, the devolution statutes are now all framed based on reserved powers. That means that, if the UK Government have not reserved something, it is devolved. The power to control state aid is not reserved. If it were, these amendments would be unnecessary. This amendment therefore plainly changes the devolved settlements by removing a power that the devolved Governments have and transferring it to the UK Government. In those circumstances, I ask why the UK Government would not work together with them, consult them before the Bill was produced and try to find a common solution to that which I have always accepted as an absolute necessity: a unified state aid control regime. I fear it is an example of Westminster saying that it knows best, rather than working with the devolved Administrations.

Secondly, if the desire was to work together but, at the same time, provide a means of subsidy control, why, when changing the scheme of devolution, was a commitment not made in the Bill to work together with the devolved Administrations to develop the new regime? These questions seek to show that much could have been done to proceed in a way that strengthens the union, for that is the point of these amendments: to ensure that the UK Government work together with the devolved Administrations.

It is therefore necessary to ask the Minister a general question: how serious are the UK Government in their claims that the devolved legislatures and Governments will be fully involved in developing the subsidy regime? There are many important questions, particularly the role of the CMA as an independent regulator and not an adviser to the UK Government. I am grateful to the Minister for his letter and the constructive conversations we have had, but I join the noble Baronesses in asking for these further assurances and hope we receive them.

The Deputy Speaker (Baroness Fookes) (Con): I have received a request to speak from the noble Lord, Lord Adonis.

Lord Adonis (Lab): My Lords, before I address the specific amendments in the names of the noble Baronesses, Lady Finlay and Lady Bowles, I will make an observation on the ruling from the Deputy Speaker on the previous group, when the noble and learned Lord, Lord Thomas, sought to withdraw his amendment. It directly relates to this because, for all I know, the same might happen in this case, too. I put on record for future discussions

[Lord Adonis]
the question of why, as is the normal practice of the House, amendments are not the property of the House once they have been moved.

I understand that was the case when, on 26 November, the noble Lord, Lord Woolley, moved his amendment in the ping-pong on the Parliamentary Constituencies Bill. He sought to withdraw it, but other noble Lords were not content that he should and the House then voted on it. I do not understand the difference between what happened on 26 November on the Parliamentary Constituencies Bill and what happened today when the noble and learned Lord sought to withdraw his amendment. I think this is quite an important point about the procedure of the House and whether, on significant issues of this kind, the House, rather than an individual noble Lord, has responsibility for amendments that have been moved.

6.15 pm

Similar issues apply to these two amendments. The essential issue in respect of both is the one that was at stake in respect of the previous amendment in the name of the noble and learned Lord, Lord Thomas: are we prepared to accept from Ministers assurances on consultation when, to be absolutely blunt, we do not entirely trust their bona fides, or do we think that the right thing to do is to put on the face of the Bill requirements for consultation?

The issue in respect of state aid is more serious. As the noble and learned Lord has just stressed, and as the noble Baroness, Lady Finlay, noted in her opening remarks, the issue of state aid and subsidies is not, under the devolution Acts, reserved to the United Kingdom Government. It not being reserved to the United Kingdom Government, the presumption should therefore be that it is devolved, and, that being so, it is absolutely right and reasonable that the devolved Governments should formally, on the face of the legislation, be required to be consulted before new rules on state aid are made. Therefore, the amendment of the noble Baroness, Lady Finlay, is absolutely appropriate, as it would require the consent of the devolved Ministers within a period of 18 months, so she has a process for resolution if agreement cannot be reached. I also support the amendment in the name of the noble Baroness, Lady Bowles, which would require the process by which changes are made to be subject to explicit parliamentary debate and consent.

These are not small issues. I know that, as always at this stage of Bills, there is a desire to try to hustle things through at the end, but these are fundamental issues relating to the devolution settlement and its relationship to Brexit in the years ahead. It is absolutely right that we should spend time in this House debating these fundamental constitutional issues and not take vague assurances from Ministers, many of whom—let us be absolutely frank—do not particularly believe in devolution.

I suspect that that is true of the Minister who is addressing the House today. I know him well enough to say that I do not think he particularly believes in devolution and would like the chance to row it all back and simply decree things from the centre. I give him the benefit of my respect for him. I do not think that he does any of the waffle, saying that they are going to consult SNP Ministers in Edinburgh and Labour Ministers in Cardiff and take their advice seriously. That is not how he does politics; he does politics from the centre, just like the Prime Minister, who said that devolution was "Blair's biggest mistake", letting the cat out of the bag as to what he really thinks. I think that this Minister probably takes the same view.

That is all the more reason why this House and Parliament should not simply accept vague assurances made by the Minister and the Prime Minister about consultation on devolution. We should rightly fear that what will happen is the ripping up of fundamental principles in respect of devolution as part of this Brexit mania, in which people seem to believe that only things decided by UK Ministers sitting in Whitehall offices should happen within the territory of the United Kingdom. If that happens—and the noble Baroness, Lady Finlay, and the noble and learned Lord, Lord Thomas, were absolutely right to say it—we will see the systematic undermining of the devolution settlement, and that could fundamentally destabilise the Government of the United Kingdom.

Therefore, big, centrally important constitutional principles are at stake here, and I will strongly support both the noble Baronesses, Lady Finlay and Lady Bowles, if they press their amendments to a vote. It is very important that noble Lords are on the record as to their position when it comes to defending and taking forward the devolution settlement in our United Kingdom.

Lord Fox (LD): My Lords, I can assure the noble Lord, Lord Adonis, that we on these Benches are not keen to hustle this through; we are keen to see one or other of these amendments put back so that we can continue to have the discussions in this area that we need.

I shall speak briefly to both amendments, starting with Amendment 50F, as put forward by my noble friend Lady Bowles. The Minister said that the amendment limited Parliament's scope. Au contraire, it would make sure that Parliament was in the driving seat of any significant changes. State aid is clearly important—so important that the Government are prepared to crash the entire economy to maintain control of it. If state aid is so important, Parliament and not Ministers or the Secretary of State should be in the driving seat. That, briefly, is what my noble friend Lady Bowles's amendment seeks.

On Amendment 50E, in the name of the noble Baroness, Lady Finlay, even through the attenuation of the virtual system, her passion for and understanding of devolution, her understanding of the union and the threat she sees posed to it by the overall communication atmosphere created by this Bill and other things—a view which many of us share—rang through her speech. It is clear that, without co-creation, as she called it, that threat to the union remains strong. The Minister should heed the noble Baroness and, whether or not she presses her amendment, look at ways of genuinely bringing on board the devolved authorities so that there is shared ownership of this important process. If either proposer presses their amendment, we will support them.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I agree with others who have spoken that this has been an interesting debate. It is clear that good discussions have taken place between Ministers and the movers of the amendments, which is a good sign and reflects changes.

The Government have made a concession and a commitment to extensive consultation prior to bringing forward proposals for their state aid regime. That is a major change compared to where we were at the start of this Bill, which we welcome.

Like the noble and learned Lord, Lord Thomas, we agree that control of state aid and the regime which underpins it must lie at the UK level, but, as we discussed when debating a recent regret amendment to the statutory instrument referred to by the Minister, we think that policy development in this area has been quite bizarre. How on earth Parliament is expected to opine on state aid rules without first knowing what those state aid rules might be—whether we are continuing where we were, whether we are changing to WTO or whether it is somewhere in between—is beyond me; it is not the way we normally do things, as we made clear in that debate. I imagine, and it has been said by others, that it is because this issue is still at the heart of the never-ending discussions in Brussels about the future of the EU free trade agreement. We may begin to see progress once that is resolved, but we are where we are, and we are moving to World Trade Organization rules—much discredited—on 1 January and have yet to consult on an appropriate state aid regime. This is not the way we should do things.

However, we on this side of the House accept that Ministers have given assurances at the Dispatch Box, and they have been repeated today, that spending on state aid, as opposed to the control of policy on it, is an issue that has to respect the devolution settlement. It needs to be done in a way which brings forward the consultation and the seeking of consent that have been discussed by just about everybody who has spoken today. However, a final assurance from the Dispatch Box is required to take the trick on this matter. If the Government repeat that they will make every effort to work consultatively and seek the consent of the devolved Administrations, I do not think that this is right amendment on which to divide the House on this issue or the right time to do it, so we would not support that.

The noble Baroness, Lady Bowles, on the other hand, is moving ahead of the game, looking to future changes and asking how they would be introduced. She is right that these are big decisions that need to be thought through very carefully. If they are to be slipped through in some form of secondary legislation, they will not achieve the scrutiny and debate that they should. She makes some good points about that, and about the gap that will emerge if there is no primary legislation, let alone the need for consultation and discussion with those who have to implement the legislation once it is brought in. Although I discussed it with the noble Baroness prior to this evening's debate, I suspect that this amendment has been picked up too late to be included in the Bill at this time. As she said, however, it would be good to hear the Minister set out his plans at the Dispatch Box. Again, if he does so, I would not be prepared to divide the House on this issue.

Lord Callanan (Con): My Lords, I have once again listened carefully to the points made in the debate today. It is always particularly entertaining to listen to the noble Lord, Lord Adonis, who has once again benefited us with his Brexit prejudices. I give some advice to the noble Lord: he just needs to accept that we had a referendum on this subject as well as a general election that was mainly devoted to it. He really needs to use his considerable talents in other areas and get on with his life. The issue is settled; we are leaving the European Union. I respect his ideas and opinions, but he lost. As a Conservative from the north-east, I know when I have lost an election, and there have been plenty of them in the past.

Regarding devolution, in my previous job I chaired the Joint Ministerial Committee with the devolved Administrations on ongoing EU business. I attended many meetings with both Scottish and Welsh Ministers. Of course, we did not always agree on the outcomes or the issues, but we certainly had a very good personal relationship. I listened to their concerns very closely, as indeed they listened to mine; as I said, we had a good working relationship.

I reiterate, first, that I welcome the shared consensus in this House to continuing the UK-wide approach to subsidy control and confirming this in law. While I am grateful for the time and the effort that has been devoted to scrutinising this provision as is right for your Lordships' House—perhaps too much time and effort, but we are where we are—it is important to note that we have asked the other place, the elected Chamber, to think again on the relationship between subsidy control and common frameworks. It has been clear that subsidy control does not fall within the common frameworks programme, and that any undue delay is not something to be supported. I hope that noble Lords will be able to respect that decision. I recognise the concerns of the Welsh and Scottish Governments, but I reiterate that the noble Baroness's amendment is not the best way forward. This amendment is inconsistent with the reservation clauses that both Houses have now agreed should remain in the Bill.

I also reiterate that state aid has always been reserved and, as such, has never been part of the common frameworks programme. This amendment seeks to reverse a decision which has already been made. We need to move forward on this issue as I have indicated, and this will be done through the forthcoming consultation.

The noble Baroness, Lady Finlay, asked me for an assurance that we will make every effort to get devolved Administrations' support. Amendment 51B demonstrates that the Government are committed to maintaining a constructive, collaborative relationship with the devolved Administrations, as it is in all our interests to ensure that a new regime works for the whole of the United Kingdom. We hope that this amendment will enable us to discuss and resolve any such issues before the publication of any consultation response, and we will commit to listen very carefully to the devolved Administrations' concerns.

[Lord Callanan]

We all agree that the UK Government and devolved Administrations should work constructively and co-operatively in this policy area. That is why, as I have said, the UK Government have set out an amendment that commits to consulting them. The amendment ensures that, before publishing any relevant report relating to the outcome of the UK subsidy control consultation, the Secretary of State will provide a draft of the proposed response to the devolved Administrations, inviting them to make representations. The Secretary of State will then consider any representations and determine whether to alter the report in light of that consideration. If after all that we decide to legislate, it will, of course, come to this House.

This process will ensure that the devolved Administrations' voices are heard, but it avoids creating the unnecessary delays and confusion that a legislative requirement to try to agree a common framework would introduce. Potentially waiting 18 months for a UK-wide system to be agreed would create uncertainty for UK businesses and damage our efforts to promote the UK's economic recovery. For these reasons, I respectfully suggest that the approach put forward in the amendment from the noble Baroness, Lady Finlay, is not appropriate at this time.

6.30 pm

I reiterate that Amendment 50F, in the name of the noble Baroness, Lady Bowles, is premature in so far as it seeks to determine particular aspects of the UK's future approach to subsidy control. This amendment would seek to limit Parliament's ability to legislate in this policy area and undermine the forthcoming consultation that we have committed to publish in the coming months. I can say to the noble Baroness, Lady Bowles, that we will consult on whether to go further than those existing commitments, including, as she asked me, on whether primary legislation is necessary. We want a system that promotes a competitive and dynamic approach to our economy throughout the UK.

As I set out earlier, state aid rules will not apply to the UK from 1 January as they currently do. This issue was debated and agreed by both Houses in the recent state aid revocation SI debate, in which the noble Baroness took part. The SI provides absolute legal certainty on this point. The EU's state aid rules, as the noble Baroness well knows, were designed to meet the needs of the single market in the EU. The Government have always been clear that the UK will have its own approach to subsidy control; we want a modern system designed to support British business in a way that fulfils all our interests.

The forthcoming consultation remains the best way in which to design the details of a future UK-wide approach to subsidy control. The Government's commitment to consulting the DAs on this matter reflects the importance of moving forward in a collaborative and constructive manner. For all those reasons, the Government cannot agree with Amendments 50E and 50F, and I invite both noble Baronesses not to press them to a Division.

Baroness Finlay of Llandaff (CB) [V]: My Lords, I am most grateful to all noble Lords who have spoken in this debate. I start by commenting on the amendment proposed by the noble Baroness, Lady Bowles. She highlighted the constitutional issues here and that this is ahead of its time.

As my noble and learned friend Lord Thomas of Cwmgiedd said, we need a unified state aid scheme and we need something in the Bill to strengthen and not weaken the union, because the devolved Administrations must be fully involved. I appreciate the passion of the noble Lord, Lord Adonis, for supporting the devolved Administrations. The noble Lord, Lord Fox, made some very important points about who is in the driving seat and heard clearly and reiterated the threat that some of us see to the union, as well as the need for co-creation. I appreciate very much the support that he has offered.

The noble Lord, Lord Stevenson, is right that there has been a good discussion, but I am not convinced that we have really heard enough from the Minister. While the Minister certainly works with the devolved Administrations—and I am not disputing that—I was listening very carefully for the words that "consent" would be sought over agreements and that there would be "agreement". Simply consulting is not enough; one can consult and then reject and ignore whatever is said.

Being at a distance in the hybrid House, it is difficult to feel the atmosphere in the Chamber or know what the feeling of the House is. Some may disagree, but my feeling is, from where I am now, that many in the House are unionists and feel passionately that we must not jeopardise that union and must strengthen, however we can, the working between the devolved Administrations and Westminster. Therefore—hesitantly, but I feel that there is a need for it—I wish to test the opinion of the House, because I wish to give all Members of the House, whichever Bench they sit on, the opportunity to vote according to their conscience over the threat that this poses to the union going forward. I beg to move.

6.34 pm

Division conducted remotely on Motion G1

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Motion G1 disagreed.

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6.47 pm

Motion G2 (as an amendment to Motion G)

Tabled by ***Baroness Bowles of Berkhamsted***

At end insert "but do propose Amendment 50F in lieu—

50F: After Clause 50, insert the following new Clause—

"**State aid**

The Secretary of State may not, by exercise of powers under this or any other enactment, make any changes to the test for a harmful subsidy, remedies, the scope of exemptions and conditions or time limits on approvals.""

Baroness Bowles of Berkhamsted (LD): My Lords, I have put down my marker on this point. It is not going away, and nor am I. I thank the noble Lords who spoke in favour of the principle which I laid out but, for now, this Motion is not moved.

Motion G2 (as an amendment to Motion G) not moved.

Motion G agreed.

High Speed Rail (West Midlands-Crewe) Bill

Third Reading

6.48 pm

The Deputy Speaker (Baroness Fookes) (Con): My Lords, the Motion for Third Reading will not be debated as no amendments have been tabled. On the Motion that the Bill do now pass, I will call Members to speak in the order listed in today's list. 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 the amendment or the Minister, Members may speak only once. Short questions of elucidation after the Minister's response are permitted but discouraged. A Member wishing to ask such a question, including Members in the Chamber, must email the clerk. Leave should be given to withdraw. When putting the question, I will collect voices in the Chamber only. If a Member taking part remotely wants their voice accounted for when the Question is put, they must make this clear when speaking. We will now begin.

Motion

Moved by ***Baroness Vere of Norbiton***

That the Bill be now read a third time.

Motion agreed.

Motion

Moved by ***Baroness Vere of Norbiton***

That the Bill do now pass.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, in moving that the Bill do now pass I will make a couple of observations and reflect on its passage—but I will do so fairly briefly. The Bill was introduced in the other place in 2017. It made relatively swift progress, carrying, as it does in your Lordships' House, cross-party support. However, since being brought to your Lordships' House in July 2019, its passage has been rather less than high speed. The Bill has had to contend with a general election, a revival Motion and legislative capacity issues due to the Covid-19 pandemic. It has been an absolutely unprecedented period, but it is with great pleasure that I return it to your Lordships' House today, hopefully for the last time.

I note these events to highlight the extraordinary work of the Select Committee in this context. With the introduction of social distancing and Covid-secure practices, the Committee had to alter its working practices almost at the moment of its inception. Under the leadership of the noble and learned Lord, Lord Hope of Craighead, the committee showed adaptability, compassion and unwavering fairness when hearing the concerns of petitioners. I pay tribute to the work of the chair and of my noble friends Lord Haselhurst, Lord Brabazon of Tara and Lord Horam, and the noble Lords, Lord Goddard of Stockport, Lord Liddle and Lord Snape, who all served on that Committee. Many gave their further assistance in participating in subsequent debates on the Bill and took time to share their in-depth knowledge of the issues under consideration. On completing the hearings, the Select Committee published its report outlining its considerations and observations and making recommendations. I wish to note that all these recommendations were accepted by the Government in full.

It would be remiss of me not to extend my thanks to all those outside your Lordships' House who contributed to this Bill. Promoting a hybrid Bill is no mean feat. It would not be possible without the continued

hard work of dedicated staff at HS2 Ltd, many of whom have worked on this Bill from its development to its completion and will continue to work on the project for many years to come. Of course, there is also the fantastic Bill team at the Department for Transport. This was my first time in close contact with a hybrid Bill, and the team members supported me with patience and good humour as I tried to get to grips with this less-than-commonplace legislative beast. They have done an outstanding job. Finally, I am sure that noble Lords would wish to join me in thanking the staff in the legislative offices of both Houses, the House authorities and the team of parliamentary agents and counsel for their continued expertise and assistance.

However, this Bill is fundamentally about people, and specifically the people affected by the Bill, so I pay tribute to the individuals, businesses, communities, organisations and local representatives who all joined in and engaged with the process of this Bill, through consultation and the petitioning process. The Secretary of State has made more than 1,500 binding commitments to those living alongside this short section of HS2.

It is Royal Assent to this Bill that many of these commitments are predicated on. If it so pleases Her Majesty, it is time for this Bill to pass and for the commitments to be given force. I beg to move.

6.53 pm

Amendment to the Motion
Moved by ***Lord Adonis***

At end insert "and this House takes note of the further steps required to complete HS2 in line with the commitments given by successive Governments since 2010, including the necessity for early legislation to complete the promised HS2 lines from Crewe to Manchester and from Birmingham to Sheffield and Leeds."

Lord Adonis (Lab): My Lords, I will begin by adding to the list of congratulations which the Minister gave. I congratulate her on her extremely professional handling of the passage of the Bill through this House, my noble friend Lord Rosser, who will be participating remotely later and who has applied his constructive and forensic skills to the Bill, the noble Baroness, Lady Randerson, who has done an excellent job on behalf of the Lib Dems, and other noble Lords. I associate myself entirely with the Minister's remarks about the Department for Transport and HS2 Ltd. I see in his place the noble Lord, Lord McLoughlin, who will be speaking later. Both he and I had the benefit of phenomenally professional and excellent support from officials in the Department for Transport. Some bits of Government have not been working brilliantly over the last 10 years, but the upgrading of the infrastructure of this country, led by the Department for Transport, is one of the bright and optimistic things going on in the country at the moment.

I know a lot of negative things are said about HS2 Ltd but, if you take stock of the net balance of achievements over the last 10 years, it has played a phenomenal role in taking forward the biggest infrastructure project in Europe over that period. It has not got everything right, but who does in this game? Has it been a successful partner in the delivery of a phenomenally important infrastructure project, which, as the Minister said, is about people and communities being able to get the infrastructure that they need in the 21st century? It definitely has, and we all pay tribute to it.

The issue now, which is why I make no apology for detaining the House for a few minutes, is how we go forward now. When the Bill becomes law, Parliament will have made provision for 172 route miles of HS2—that is, 134 miles from London to the West Midlands and 38 miles from the West Midlands to Crewe. If we are going to deliver the vision that the noble Lord, Lord McLoughlin, and I and four successive Governments since 2010 have committed to, we will need all 330 route miles of HS2, which means extending the current HS2 provision—the 172 miles that Parliament will have provided for—from Crewe to Manchester and from Birmingham to Sheffield and Leeds, so that we have balanced infrastructure provision to promote the prosperity of the entire country.

The contention that I want to lodge with the House as the Bill is passed—the Minister will not be surprised by what I shall now say, but it needs to be constantly said because we have to win this argument or else huge damage will be done to balanced growth in the UK over the next two generations—is that it is essential that the next 160 route miles, which will take HS2 through to Manchester and Leeds, are handled as a single stage. That was the basis on which both the noble Lord, Lord McLoughlin, and I sought to take HS2 forward: there would be a first stage, which would be from London to the West Midlands, and then a second. An initial stage 2a was introduced essentially as an addendum to the first stage, but the conception was always that the extensions to Manchester and Leeds would be taken forward together.

The big danger facing HS2 at the moment is that the second phase will be split between the extension to Manchester and the extension to Leeds, which would downgrade—and possibly postpone indefinitely—the extension to Leeds. That is taking two forms at the moment. The first danger is that the Government will not even commit to all of stage 2b. That is a very real danger at the moment. Tomorrow the National Infrastructure Commission report comes out and it may not even make the commitment to take the line through to Leeds. I assure your Lordships that if I were still chairing the National Infrastructure Commission, of which I had the privilege of being the founding chair, there is no way that such a recommendation would come forward because the job of the NIC is to promote the infrastructure required for the future prosperity of the UK, not to make arguments as to why it should not be completed at the behest of the Treasury seeking short-term economies.

On that point, I simply say to the Government and the House that if this big mistake is made, and the commitment is not made now to extend the full HS2 line through to Sheffield and Leeds, it is not that it will not happen; I believe that it will, but there will be a classic English mess-up in the development of infrastructure. What will happen is that in eight or nine years' time the line to Birmingham will be opened,

[Lord Adonis]
my noble friend Lord Hunt, who is here today, will have the benefit of being able to go back to Birmingham in half an hour, and everyone will say, "Wow, isn't this absolutely phenomenal? Let's get a move on to Manchester faster because we want to get there in one hour."

Then suddenly people in Sheffield and Leeds will wake up to the fact that it is taking two hours to get to Sheffield and three to get to Leeds and, because we are a democracy, they will demand that the project be taken forward. Instead of doing this whole thing in 15 years, completing the line through to Manchester and Leeds, as we should have done, it will take 40 years and the poor people of the east Midlands, Sheffield and Leeds will get HS2 a generation later than they would otherwise have done, with big damage to their economies and societies in the interim.

As Lloyd George famously said, "When traversing a chasm, it is advisable to do so in one leap." We know where this will end up. I can predict that, when somebody is reading *Hansard* in 2060, the line to Leeds and Manchester will have been completed. It will be a lot better for the country, and indispensable to the economic and social future of these communities, if we take these decisions now and do not, as I said at an earlier stage, have the equivalent of the Victorians building the railways up to Manchester but leaving Sheffield and Leeds with a canal.

The second proposition, which the Minister herself advanced earlier, is that splitting the provision for the next 160 miles into a Manchester leg and a Leeds leg will somehow facilitate the building of the railway—a classic case of trying to make a virtue of something when it has been decided not to proceed with it. I do not believe that that is the case. It is important for how it goes forward in future to understand this argument, so I will subdivide it. The argument is that splitting the provisions, with a Bill for phase 2b going up to Manchester and, in due course, a Bill for phase 2c going up to Leeds, makes enactment quicker and simpler. Also implicit in what the Minister said is that it makes construction more manageable and less expensive. Neither argument is valid.

The Minister herself made the argument against the first—that it facilitates the enactment. As she rightly said, this Bill has taken three years to enact, for just 38 miles. It would not have taken longer if the legislative provision had covered the whole way through to Manchester and Leeds. I say this with a serious note of warning to the Government. By my quick calculation, it has taken longer, not just in actual time but in parliamentary time—the sittings of the Select Committees and your Lordships' post-committee processes—to enact the Bill for 38 miles than it took for the one covering 134 miles from London to Birmingham.

The reason for that is that so many of the objections to big infrastructure projects that this House has to listen to are generic. I say with real feeling to the noble Baroness and her successors: all the generic arguments that have been made will be made again and again, each time a subsequent Bill comes. It is much better to package them all into one Bill, rather than delay the process with two.

On the point about construction being more manageable, it is entirely up to the Government and whatever the delivery agency is to decide how they phase construction, but nothing can be constructed unless Parliament has granted the powers. The right thing to do is to get one piece of legislation on the statute book, dealing with all 160 miles, taking HS2 through to Manchester and Leeds. How the construction is phased can be decided afterwards.

There are big lessons. Over four Governments there has been consensus on taking forward HS2 up to Birmingham and now to Crewe, but I strongly urge the Government not to seek to divide the next phase, delay the introduction of legislation and, even worse, postpone indefinitely the leg to Sheffield and Leeds. Rather, they should seize the moment, seize the future, be true to the vision of HS2, which all Governments in the last 10 years have signed up to, and produce one Bill next year taking HS2 right through to Manchester and Leeds. It can be done. We are a great nation. The Prime Minister tells us all the time that we must be optimistic and forward-looking. I completely share that agenda. Let us get on with it. I beg to move.

7.03 pm

Lord McLoughlin (Con): It is always a pleasure to follow the noble Lord, Lord Adonis, who speaks with such fervour about a project that I think it is fair to say he created and made the initial plans for. Of course, he left office in 2010, and a lot has happened since then: HS2's formation and growth, and the case being made for it. It is perhaps worth occasionally reminding the noble Lord, who looks at these things through rose-tinted glasses, of the last Labour Government's appalling record on transport infrastructure spend. Between 2000 and 2007, we had the lowest infrastructure spend of all the OECD countries, and in the World Economic Forum ranking we fell from seventh to 33rd in infrastructure investment terms. The rose-tinted glasses therefore occasionally need polishing, so that we can look at our true record.

It is true that any big infrastructure project is always hugely controversial, and that is certainly true of HS2. One has to accept and understand it when people oppose this project because it is on their doorsteps and they will perhaps not benefit directly from it; that too is certainly true of HS2. I have never dismissed those who oppose this project because it goes through their area, but we also have to look to the greater good for our country.

Importantly, this is the first time in over 100 years that we will have built a new north-south railway in this country. The noble Lord, Lord Adonis, mentioned my role. I commissioned David Higgins to produce a report on how we could get the benefits faster. When I was Secretary of State, I told the House of Commons that his report, which was published in 2014,

"suggests opening the new line to a new hub station in Crewe six years earlier than planned. Direct trains will of course be able to run off HS2 lines to serve places such as Stoke, Liverpool, Manchester, north Wales and Scotland, and faster too, and the line to Crewe sooner would mean journeys that are shorter than they would be under phase 1".—[*Official Report*, Commons, 24/3/14; col. 29.]

A point I often make is that HS2 is not just about speed; that is just one element. HS2 is about freeing up capacity. We have seen a huge growth in the use of our railways over the past 20 years. Today's Covid experience has obviously had a devastating impact on the use of our railways, but I do not think it is going to be long-term; I still think we will see a growth in rail travel once we get over this horrendous Covid problem.

I very much welcome Third Reading of this Bill today; it is another stage in the objective proposal of HS2. Where I do agree with the noble Lord, Lord Adonis, is that this is a project that serves both the east of England and the west coast main line. It is absolutely essential that we see such development in the East Midlands.

There have been big changes since the whole concept was first announced, with HS2 now going right into Sheffield instead of just going to Meadowhall and then on to Leeds. Another change is the redesigning of the route as a result of measures that have been investigated, looking at the practicalities of how we best serve the cities outside London. Indeed, serving what will be Toton station, and the service to Chesterfield, Sheffield and Leeds, will radically enhance our cities outside London. This is part of the concept of HS2; it is the right thing for us to do, and it will level the playing field between the north and the south. I congratulate the Minister on achieving this and getting Third Reading of the Bill and the extension up to Crewe.

I turn to the final part of the job. I have no idea what the National Infrastructure Commission will say tomorrow, but this is a project for the whole country. It does not finish in Leeds or Manchester; it needs to go on—to Cumbria, Newcastle and Scotland. Yes, we and those cities will see the advantages in the train service running up to Sheffield, because the journeys will be shortened and they will be able to carry on. In the longer term—this is a long-term investment project—we will see changes of government but it is essential that, once we set out on these tasks, we fulfil them so that Scotland, Newcastle and our great cities outside London feel the benefit. This is a levelling-up exercise; it was always designed, and must continue, as that.

7.10 pm

Lord Scriven (LD): My Lords, it is a great pleasure to follow the noble Lord, Lord McLoughlin. I agree with many of the things he said. Like him, I welcome the eventual passage of this Bill—hopefully—but regret that the total HS2 scheme as envisaged is not on the statute book. As the noble Lord, Lord Adonis, said, that is all we ask. Once it is on the statute book, it can be built. Until then, it cannot be built and it still wavers in front of the eyes of those of us who live on that eastern leg, and there is no certainty.

As I said earlier, I am a proud resident of Sheffield. It is my adopted home. I have lived there for more than 20 years and I am a former leader of its council. I see the great entrepreneurship of many people and businesses but I also see the great opportunities that are dampened because of the lack of connectivity, not just between Sheffield and London via HS2, but between Sheffield and other cities and towns in the north.

As the noble Lord, Lord McLoughlin, said, HS2 is about not just speed but capacity. It is about allowing part of the jigsaw of economic opportunities to be unleashed and improving capacity. In particular, it is about allowing freight to move more freely on the existing rail lines and moving passengers faster. It is absolutely integrated. Until the Government build that, we will not have levelling up in this country.

The north is not a homogenous blob. It is made up of towns, cities and villages. It is made up of the people who live there and the businesses that trade there. This infrastructure, going up through the East Midlands to Sheffield and Leeds, is absolutely vital to the levelling-up project and to unleashing opportunities. I must say to the Minister that we in the north say it as we see it. We smell something not quite right here. We smell the whiff of a fudge and dither and delay when it comes to the eastern leg through the East Midlands to Sheffield and Leeds.

If the reports in the northern press over the weekend about the National Infrastructure Commission are anything to go by, we really are worried. I am sure that the Minister will say from the Dispatch Box that she cannot comment on what was in the press over the weekend, but the reports were very clear. They said that a source close to the commission has made it clear that the recommendation possibly will not go ahead and that, if it does, the other option will be to make sure that it does not happen until much later. That is unacceptable. That is not levelling up; it is dumbing down the opportunities of many people in the north.

We want the line as soon as possible. As I said previously, this is simply because the opportunities offered by the eastern leg are greater than those offered by the western leg. Spending on the eastern leg is less per head than on the western leg and deprivation along the eastern leg is higher. Therefore, in creating economic opportunities for people, we must know that this project is on the statute book and will be built so that investment can begin and people can start speculating about what jobs and businesses can be created along that line.

While I entirely welcome this Bill, I worry about the eastern phase. As I have said, the north is not just one. It is interconnected and therefore we need parity on the west and the east if we are to have equal access to levelling up, high speed rail and the capacity it brings for people and businesses. That is why, while welcoming this Bill, I support the amendment in the name of the noble Lord, Lord Adonis.

The Deputy Speaker (Baroness Morris of Bolton) (Con): I understand that the noble Lord, Lord Blunkett, has withdrawn, so I now call the noble Earl, Lord Lytton.

7.15 pm

The Earl of Lytton (CB): My Lords, it is a privilege to bid this Bill farewell as noble Lords clearly want the scheme to go ahead, although with understandable concerns about the detail. I am unsure how I view the amendment tabled by the noble Lord, Lord Adonis, but I do get his point. I noticed with wry amusement his reference to the inverse relationship between the parliamentary time taken up and the distance of the phase in question we have before us. Whether or not

[The Earl of Lytton]
one regards HS2 as a serious addition to communications and rail capacity, it remains an ambitious scheme using state of the art engineering. I hope it will be something the nation can be proud of.

If there is anything I would say by way of postscript, it is that government departments should be more ready to engage with external experts before re-writing existing specialist legislation such as that on party walls. I thank the Minister for writing to me last week clarifying the issue of residual liabilities. I fear, however, that it may highlight some different views on the long-term liability holder under party wall procedure as opposed to under HS2. Like the Minister, I believe we are indebted to the work of the Select Committee. I found the contributions by members of the committee in our discussions invaluable. I am particularly grateful to the noble Baroness for agreeing to issue guidance on party wall matters under the HS2 arrangements. I am glad to report this process is now well in hand. She has been helpful throughout and has kept us all exceptionally well informed on responses to points made. That has enormously improved the way this has proceeded.

I thank the Bill team for their patience, tolerance and understanding over some very narrow and technical—but important—issues. This is despite the fact that the party wall bird has flown, and probably flew as long ago as the Crossrail legislation. I also thank the many outside professionals, who have gone more than the extra mile to advise and guide me on specific areas of this Bill.

Finally, in his absence, I thank the noble Lord, Lord Berkeley, for his support and assistance and other noble Lords for their support. Given that the festive season is nearly upon us, I wish all noble Lords, the Minister, clerks and the Bill team a well-earned and above all congenial and peaceful break.

7.18 pm

Lord Bhatia (Non-Afl) [V]: The High Speed Rail (West Midlands–Crewe) Bill will provide approval for phase 2a of the HS2 rail line. Phase 2a will run between the West Midlands, where it will link with phase 1 in Crewe. The Bill began its Committee stage in the House of Lords on 9 November 2020. The Parliamentary Under-Secretary of State, the noble Baroness, Lady Vere of Norbiton, outlined the main features of the phase 2a scheme. She argued that it struck an appropriate balance between protecting the environment and giving value for money to the taxpayer.

The shadow Minister for transport, the noble Lord, Lord Tunnicliffe, said that Labour had initiated the HS2 project and still supported both HS2 and the Bill. However, he said that the railway should be built as a network rather than a statement of infrastructure. He also called for an improved scheme of compensation for those affected by the line. The Lib Dems also supported the Bill.

The NAO reported in January 2020 that the Government had not fully and openly recognised the programme's risks from the outset, and hence had not adequately managed the risks to value for money. Such large projects have always carried risks of being over budget and timeframes. The most important thing to remember is that such a large infrastructure project gives work for many people, bearing in mind the present pandemic, which has created a big number of redundancies in many industries.

Is there any estimate of compensation that will have to be paid to those home owners whose homes have had to be destroyed?

The Deputy Speaker (Baroness Morris of Bolton) (Con): The noble Lord, Lord Liddle, has withdrawn, so I now call the noble Baroness, Lady Jones of Moulsecoomb.

7.21 pm

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, I have said once or twice in the passage of this Bill, and many times before, that I really wish this was not going ahead. The noble Lord, Lord McLoughlin, said earlier, "Oh, it is not just about speed." Actually, from a Green point of view, it has been a lot about speed. Of course, the faster you go, the less able you are to corner, and so the less options there are on route, and every single piece of infrastructure has to be built stronger if you have a much faster train going through. On the capacity issue, there are better ways to spend all these billions and create capacity—changing some of the signalling might have helped for a start.

I am not entirely sure that the Government are actually going to build this bit of the railway anyway, because I think events might overtake all their planning. In any case, for me, HS2 is just another part of the Government's really damaging transport policy. The Government are not tying up the whole concept of travelling less, reducing carbon emissions and generally accepting that things have changed—that people, quite possibly, are not going to commute as much as they used to. Quite possibly, they will work more from home.

I hope that a more ecological, holistic approach might be adopted by the Government at some point. I really feel that it is 20th-century thinking to build a railway like this that is so polluting and so destructive. The Government should really try to keep up with the times and understand that this was not the right way forward. However, if the Government do carry on with this, I hope they will learn the lessons from the first part of HS2, because there were a lot of incidents that need not have happened and that were extremely destructive to nature, land and generally to communities. Learning the lessons of the past might be a really good idea.

I would like to take this opportunity to thank and celebrate all the campaigners who have been trying to stop HS2. Quite honestly, many of them have put their personal safety, their personal finances and a lot of other things on hold because they were so dedicated to trying to stop HS2. They had physical, personal and financial problems because of all the things they were doing. There are people like Sarah Green in Colne Valley, who has just been a beacon of hope actually trying to mitigate the worst of HS2's damage to that beautiful area. Then, of course, there are other organisations and individuals, from the Woodland

Trust, the Wildlife Trust and parish councils to communities all along the route and concerned residents, who all gave their time and efforts to do what they know is right for their area.

There are only two Green Party Peers in the House at the moment. I am delighted that I now have a noble friend, Lady Bennett of Manor Castle, but we are obviously not the only greens. It has been a real pleasure during the passage of this Bill to talk to more and more people who are concerned about not only the natural environment but our impact on the wider world. I am very happy to find green allies among noble Lords in your Lordships' House, and I am quite often very pleasantly surprised at the green streaks coming out of the most unexpected quarters.

I also thank the Minister, who has been superb at talking to Peers, explaining what is going on and giving us lots of opportunities to ask questions. Although the Bill has had a difficult passage, it has been better than had she not been as open and welcoming to us. Thank you, and what a pity this is happening.

7.25 pm

Baroness Randerson (LD) [V]: My Lords, there are some Bills going through the House with which we on the Liberal Democrat Benches disagree fundamentally. There are other Bills that we agree on the need for but disagree with the remedies prescribed by the Government, so it a pleasant change to provide support for this Bill, in both principle and detail. I thank the Minister and her officials for their thoroughness in providing a succession of briefings and for accepting the amendment providing for monitoring of the impact of construction of HS2 on ancient woodland. I take this opportunity to urge the Government to broaden the wording of that amendment to include sites of nature conservation value generally.

We are also indebted to the noble Lord, Lord Adonis, who never shies away from the opportunity to press the case for HS2, as he has done today. The rumour mill is working at full tilt: well-placed sources, as they say, have indicated that the National Infrastructure Commission is about to recommend that the eastern leg up to Leeds, part of the next phase, should be scrapped. Credibility is given to this by the Government's decision to split future Bills into smaller parts. I hope the rumours are wrong, but I fear that they are not. Since the job of the National Infrastructure Commission is to promote infrastructure, I ask the Minister what precise remit was given to it for this current review, if it is to recommend truncating HS2.

Abandoning the eastern leg now would be much worse than never having thought of it in the first place. It would be a high-profile public symbol that the Government do not care about the north-east, the poorest part of England. It would be a public snub to the area and would demonstrate that the levelling-up agenda is no more than a useful election slogan.

I am pleased to see the Bill through the House today. I hope the Government decide not to try to undo the amendments passed in this place. Our country is crying out for big, imaginative investment at a time when, as a nation, we are otherwise turning our backs on the modern world. As the noble Lord, Lord McLoughlin, said, HS2 is about much more than speed but, without speed, it will not be as successful at supplanting aviation for short-distance journeys and will not persuade people out of their cars. Above all, it is part of the transport revolution that climate change dictates.

HS2 has been supported over more than a decade by Government Ministers of all colours—Labour, Liberal Democrat and Conservative. Let us get this built as soon as possible but, for it to have the transformative effect envisaged, we need all of it—all the way to Scotland—and not a cut-down compromise.

7.29 pm

Lord Rosser (Lab) [V]: In Committee, the Government said that

"plans to provide the benefits of high-speed rail to the east Midlands, Yorkshire and beyond will be confirmed following the publication of the integrated rail plan",

and that

"a properly connected line from the Midlands up to the north will be a key part of the HS2 project."—[*Official Report*, 9/11/20; col. GC 351.]

As has been commented on more than one occasion, that reply was not, of course, a commitment to build HS2 phase 2b to Leeds in full. It would be helpful if the Government could say what the words

"plans to provide the benefits of high-speed rail"

actually mean, because the concern is that what the Government actually mean is not that the high-speed line will be built the whole way from Birmingham via the east Midlands to Leeds, but that HS2 services will, for all or part of the journey, run over existing routes calling at existing stations, as would apply, for example, to HS2 services calling at the existing stations at Stafford and Stoke.

The concern is that the Government could be either looking to abandon the eastern leg of HS2 through to Leeds, or significantly delay its construction and completion. The lack of a clear commitment to the HS2 project in full calls into question the Government's declared commitment to levelling up, since the eastern leg is just as vital as the delivery of the western leg. Indeed, proceeding with only the western leg will leave the cities and areas that would have been served by the eastern leg at an even bigger disadvantage. The Government have a further chance in a few moments to provide absolute clarity on the concerns raised by my noble friend Lord Adonis. It remains to be seen whether they take that chance.

In concluding, I take the opportunity, and on behalf of my noble friend Lord Tunnicliffe, to thank the Minister and her Bill team for their patience and courtesy in listening and responding, in writing or through meetings, to the many and varied issues raised by noble Lords during the Bill's passage. Like others, I express my thanks for the invaluable work done by the Select Committee. I hope the consideration the Bill has been given during its passage through this House by all concerned in whatever role will assist in ensuring that the HS2 project continues to move forward to completion on time and, I hope, in full.

7.32 pm

Baroness Vere of Norbiton (Con): My Lords, I thank all noble Lords for their thoughtful and good-natured contributions, today and throughout the passage of

[Baroness Vere of Norbiton]
the Bill. First, I will—fairly briefly—address the Motion in the name of the noble Lord, Lord Adonis. I admire his persistence and dedication to the HS2 project. I note what he said, but I fear that I cannot go any further than I have in previous debates.

The Government are fully aware of the steps needed to deliver HS2 to Manchester and elsewhere. The Secretary of State for Transport and the Prime Minister have made it clear that they support the Oakervee review's recommendation of a Y-shaped network. The Government have already committed to publishing the forthcoming integrated rail plan. This will be informed by the National Infrastructure Commission's rail needs assessment. I will not comment on media speculation. The integrated rail plan will consider how phase 2b is designed and delivered, alongside other major rail investment in the north and the Midlands.

I join other noble Lords in wanting to ensure that as many areas as possible benefit from the investment in HS2, which is so crucial to the Government's goal of levelling up the UK economy. I have no doubt that there will be many more opportunities to debate these matters to satisfy not least the many former Transport Secretaries and Ministers in your Lordships' House, but all the other noble Lords who have a great experience of, or an interest in, transport infrastructure. Today is not the day to debate the wider scheme.

For now, we have the key for phase 2a in our hands. It runs from the West Midlands to Crewe; this Bill is the key to unlocking such benefits further north. By passing this Bill today, noble Lords are turning that key to ensure the next connection in joining up this country and ensuring that, as we build back from the Covid-19 pandemic, we build back better. It is now up to the other place to scrutinise the changes that this House has made to the Bill. I beg to move that this Bill do now pass.

Amendment to the Motion withdrawn.

Bill passed and returned to the Commons with amendments.

Gambling and Lotteries
Statement

The following Statement was made in the House of Commons on Tuesday 8 December.

"Mr Speaker, I hope you will accept my apologies for any offence caused by some of the information already being out there. I can assure you that the full details and the call for evidence document are only just now being released and made available on the GOV.UK website, precisely to coincide with this Statement, but I understand and accept what you said.

The Gambling Act has been the basis of virtually all gambling regulation in the UK since 2005, but a huge amount has changed since then. The internet and the prevalence of smartphones have transformed the way we work, play, shop and gamble. We can now gamble anywhere at any time. It is time to take stock of the significant changes of the last 15 years and to pull our legal and regulatory framework into the digital age, so today, we are launching the first part of our comprehensive review of the Gambling Act. It will be a wide-ranging and evidence-led look at the industry, and it will consider the many issues that have been raised by parliamentarians and many other stakeholders. We want to listen, gather the evidence and think deeply about what we need for the next decade and beyond.

Nearly half the adult population gambles each month and, for the majority of people, gambling is a fun and carefree leisure activity. It is also a sector that supports 100,000 jobs and pays nearly £3 billion a year in taxes. However, we know that, in some cases, gambling can cause significant damage to people's lives, including mental health problems, relationship breakdown, debt and, in extreme cases, suicide. We must ensure that our regulatory and legislative framework delivers on a core aim of the 2005 Act: the protection of children and vulnerable people in a fair, open and crime-free gambling economy.

This review will seek to strike a careful balance between giving individuals the freedom to choose how they spend their own money, while protecting vulnerable people and their families from gambling-related harm. We will look at whether we should introduce new protections on online products and consumer accounts, including stake and prize limits, and how we can ensure that children and young people are protected. We will also consider gambling advertising, including sports sponsorship, while taking into account the extremely difficult financial situation that many sports organisations and broadcasters find themselves in as a result of Covid. We will look at redress arrangements for consumers where, for example, an operator has failed to step in to help a problem gambler. We will consider barriers to effective research on the causes and impact of problem gambling, and we will consider whether the Gambling Commission is keeping pace with the licensed sector and can effectively deal with unlicensed operators. We will also ensure that we have a fair playing field for online and offline gambling.

Many of those areas were highlighted in a thought-provoking report by the House of Lords Select Committee. That report and others have helped to inform our thinking and our desire to ensure that the review is wide in scope, and we are publishing our response to the Lords report alongside the review. I also know that Members across the House have seen evidence from their constituents about the harm that gambling can do to individuals and their families. We want to hear from the people whose lives have been affected by gambling, as well as from academics and the gambling industry, so that we have the evidence to deliver real and lasting change. We are therefore starting the review with a call for evidence, which will run for 16 weeks and is now available on the GOV.UK website.

While this review is an opportunity to consider changes for the future, we are also taking action now to protect people from gambling harm. The Gambling Commission will continue to build on recent progress to strengthen protections as the industry regulator. Our ban on gambling with credit cards came into force in April, and new tighter rules on VIP schemes were implemented at the end of October. Further work is

also in progress on the design of online slot games, as well as on how operators identify and intervene to protect customers who may be at risk, including through affordability checks. We have also just closed a call for evidence on loot boxes, and the Department of Health and Social Care will keep working to improve and expand treatment for problem gambling.

A key priority is ensuring that we have the right protections for children and young people and, again, that cannot wait. To that end, we are also today publishing a response to the consultation on the minimum age to play National Lottery games. Since its launch in 1994, the National Lottery has been a tremendous success, raising more than £42 billion for good causes. Since 1994, its games portfolio has evolved significantly, while consumers have shifted towards online play and instant win games such as scratchcards. While evidence shows that most 16 and 17 year-olds do not experience gambling-related harm from playing the National Lottery, some recent studies point to a possible correlation between National Lottery play at 16 and 17 and problem gambling in later life. Moreover, few other countries allow 16 and 17 year-olds to purchase their national lottery products.

Protecting young people from the risk of gambling-related harm is of paramount importance. We have therefore decided to increase the minimum age of the sale of all National Lottery games to the age of 18. We are keen to make this change at pace while being acutely aware of the need to give retailers and the operator time to ensure a smooth transition. The legislative change will therefore come into force in October 2021, but we have asked that, where it can be done sooner, it is—for example, online. So under current plans, National Lottery sales to 16 and 17 year-olds will stop online in April 2021.

The review we are starting today will be an opportunity to look at the wider rules on children and gambling, and to make sure they are suitably protected across all forms of gambling. I know many colleagues will welcome the launch of this review today and will be pleased to see us living up to our commitments in the 2019 manifesto. We intend to be broad, thorough and evidence led, so that we can ensure our gambling laws are fit for purpose in the 2020s and beyond. I commend this Statement to the House."

7.36 pm

Lord Bassam of Brighton (Lab) [V]: My Lords, I am grateful to the Minister for repeating this important Statement. Before turning to the detail, I note that it is becoming increasingly common for there to be a significant gap between the Commons Statements and our repeat of them. This is regrettable; I hope it will be addressed as we move into the new year.

The launch of this call for evidence on the effectiveness of gambling legislation is a welcome step, even if it has come much later than we on the Opposition Benches would have liked. As the Secretary of State said, advances in technology and shifts in how we live on a day-to-day basis mean that current regulation reflects a very different reality to the one we now live in. This consultation exercise represents a significant first step in recognising and responding to this challenge.

While high street betting shops must abide by a variety of rules, the regulatory picture for digital platforms is very different. In recent months we have seen some companies reducing their presence on the high street, but we know that online gambling is growing. Government initiatives in this area, while welcome, have been piecemeal. Industry bodies have taken steps to promote responsible gambling, including through November's Safer Gambling Week, but we know that loopholes exist and are causing considerable damage.

With digital services there is the added challenge of jurisdiction, with some service providers registered outside the UK and therefore not currently within our regulatory orbit. We have discussed this very challenge recently in the context of audio-visual service providers and potential regulatory gaps arising from EU exit. Without prejudging the outcomes of the consultation and the next steps in the process, I hope the Minister can at least confirm that the department is cognisant of the issue. As I alluded to previously, we have been awaiting this project for some time. As with other policy areas such as online harms, we know that delays can result in genuine social costs. Can the Minister shed light on why it has taken so long to get to this point and outline the anticipated timescale beyond the consultation end date, which I believe is 31 March? While the technicalities involved in gambling regulation clearly necessitate a dedicated consultation and future legislation, it is nevertheless important not to look at these issues in isolation. For example, we know that adopting a public health-focused approach to gambling addiction could bring significant benefits to sufferers and their families.

The Statement cites work being undertaken by the Department of Health and Social Care to improve the support and treatment available to problem gamblers. We welcome this, but can the Minister confirm that the Department of Health and Social Care will be part of the broader regulatory discussions to ensure that future legislation supports, rather than undermines, its work on treatment?

There is a clear overlap between this gambling review and the Government's wider online harms agenda, which, I am afraid to say, seems to have ground to a halt. By any conceivable measure, the DCMS is failing to protect people online. There is no draft online harms legislation to scrutinise and few indications of when it will arrive, or in what form. Can the Minister outline the state of play in relation to this? Can we expect to see concrete legislative proposals by Easter, for example?

We know that the department recently missed a statutory deadline under the Data Protection Act to provide provision relating to victims, including child victims, of data breaches. This news was broken to a select few noble Lords in correspondence on the day of the deadline. Can the Minister confirm why this milestone was missed and when the review is expected finally to take place?

While she is gazing into her crystal ball, perhaps the Minister might also provide news on the fan-led review of football governance. Given the close and important relationship between sports clubs and the gambling industry, it is crucial that these workstreams happen

[Lord Bassam of Brighton]
simultaneously, rather than sequentially. The Commons Minister said that work is under way on an informed basis, with the formal review to come as soon as possible. However, one Minister at the department told the Commons Select Committee to expect a consultation on the Electronic Communications Code this side of Christmas, whereas the noble Baroness told my noble friend Lord Stevenson of Balmacara on 10 December that timings were "still to be finalised".

I apologise for failing to spread any festive cheer with this contribution, but all these issues are incredibly important. I appreciate that this has been a challenging year in many respects for government and for all, and I hope very much that 2021 will see us making meaningful progress on all fronts.

Lord Foster of Bath (LD) [V]: My Lords, I too thank the Minister for providing the opportunity to debate this Statement.

Since serving on the Commons committee that considered the Gambling Act 2005, I have seen the huge growth in gambling in this country brought about by that Act and by technological change, not least with the advent of the smartphone, enabling anyone to have 24/7 access to a mini-casino in their pocket, with high-speed games designed to keep people playing. With its spread throughout sport and television, children are seeing gambling as part of everyday life. The gambling industry and its profits have grown exponentially but, most worryingly, 60% of those profits are coming from just 5% of gamblers—those likely to be experiencing harm.

More recently, serving on the Lords committee on gambling, I received very clear evidence of the urgent need for action—not least that described in the committee's 66 recommendations—from a statutory smart levy on the industry and a statutory duty of care to much stronger regulation of advertising and controls on affordability. Those recommendations, many of which do not need primary legislation, have widespread support in your Lordships' House, as demonstrated by the nearly 150 Peers who have joined Peers for Gambling Reform, which I have the honour to chair and which seeks early implementation of those recommendations, so that those who wish to gamble can do so safely.

The urgency is illustrated by the figures. There are nearly half a million problem gamblers—probably more—including over 60,000 11 to 16 year-olds, with each problem gambler impacting the lives of family, friends and local communities, and, most tragically, on average, one gambling-related suicide every day.

So although I welcome the review, will the Minister assure me that in those areas where overwhelming evidence for change exists, the Government will take action immediately? Sadly, I was not confident about this last week. I asked the Minister what further evidence the Government need to establish a gambling ombudsman. Despite the overwhelming evidence in the Lords report, she replied:

"The Government continue to have an open mind about the role of an ombudsman."—[*Official Report*, 9/12/20; col. 1234.]

I hope that she will she reconsider. However, I welcome the work that has been done on VIP schemes and banning credit card gambling, as well as the work in relation to loot boxes and affordability. Can the Minister update us on progress and assure us that, where action can be taken quickly without waiting for the conclusion of the review, it will happen?

Gambling harm is a public health issue, and like the noble Lord, Lord Bassam, I was disappointed to see no formal role for the Department of Health and Social Care in this review. Will the Minister assure me that the review will take a public health approach and that mechanisms are in place to ensure that DHSC participates fully? The threat of major reform has led the industry to make some welcome, albeit limited, changes, but we are dealing with a vast, multinational industry that is obliged to protect its profits. Does the Minister agree that this review must be evidenced-based and avoid undue influence by industry lobbyists—lobbyists arguing, for example, that reform should be muted for fear of seepage to the black market? Of course we should look to measures to tackle the black market through payment processors and domain blocking, but does she agree with the Gambling Commission that the black market is not a significant issue and should not be used to drive down standards locally? Is she aware that some operators in this country are themselves operating in black or grey markets abroad? Will the Minister ask the regulator to look into this matter urgently?

Last week, I met the mother and the fiancée of Chris Bruney, who tragically took his own life because of a gambling addiction at the age of just 25. Chris was a bright and vibrant young man with his whole life ahead of him. To my mind, there can be no more powerful illustration of the need to reform our outdated gambling laws. I urge the Government not to delay.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): I thank both noble Lords for their welcome of the Statement and our call for evidence. I would like to pick up where the noble Lord, Lord Foster, finished, on the all-too-often tragic impact gambling can have on people's lives and the lives of their friends, families and, in particular, children. That is where our greatest priority in this review lies.

The noble Lord, Lord Bassam, talked about the Government's response being both piecemeal and slow. I am a bit puzzled about how both can be true. We have aimed to be responsive and have made significant decisions in the last year to improve the safety of, and reduce the risk of harm for, gamblers, but we have now announced an extensive and broad call for evidence, which we hope will address some of the issues several of your Lordships have raised in recent months in this House.

The noble Lord, Lord Bassam, also raised the point about offshore gambling. I am happy to write to the noble Lord if I have misunderstood, but this was a point also raised by the noble Lord, Lord Stevenson, last week. In 2014, Great Britain introduced one of the first point-of-consumption regimes for regulating gambling, which means that any gambling company, based anywhere in the world, that provides services to

GB customers, must comply with the Gambling Commission licence conditions and pay remote gambling duties to the Exchequer.

I am afraid the connection broke up at one point in the comments from the noble Lord, Lord Bassam, so I think I missed one of his questions. I know both noble Lords were concerned about the Department of Health's role. The noble Lord, Lord Foster, talked about the importance of a public health approach. Treatment is not directly in scope of the Act review; the focus is predominantly the regulation of gambling, particularly the powers of the Gambling Commission. However, the Department of Health remains absolutely committed to working on and improving treatment and integrating both NHS and third-sector provision in this field.

The noble Lord, Lord Bassam, apologised for a lack of festive cheer. I hope I can bring a little festive cheer, in that tomorrow my right honourable friend the Secretary of State will make a Statement in the other place about the online harms consultation. He will be able to address some of the other points on the timing of legislation. I hope we will take that Statement speedily after it is made in the other place.

The noble Lord, Lord Foster, talked about the risk to children and the number of children who have a gambling addiction or are problem gambling. As I said, the safety of children is our first priority in this review. I thank him and other noble Lords who sat on the committee for their 66 recommendations. He will have seen that the vast majority of these are in scope of the call for evidence. I assure him that we will not wait, as we have not waited already, to implement them.

The noble Lord, Lord Foster, said that there was overwhelming evidence for the appointment or creation of an ombudsman. Our starting point is that operators must be held accountable for their failings, and the review will look at the current system for redress. We will look at the pros and cons of different approaches and take a decision based on the evidence put forward. Again, I encourage all noble Lords and those in their networks to submit evidence.

Finally, I hope I can reassure the noble Lord that the review and the decisions taken from it will be based on evidence. He raised concerns about the power of lobbyists. Obviously, we have to look at all evidence fairly, but much evidence in this space is contested. We hope we will be able to resolve some of those contested areas and move forward with a gambling regime fit for the digital age.

The Deputy Speaker (Baroness Morris of Bolton) (Con): My Lords, we now come to the 20 minutes allocated for Back-Bench questions. I call the noble Lord, Lord Grade of Yarmouth.

7.53 pm

Lord Grade of Yarmouth (Con) [V]: I thank my noble friend the Minister for answering questions on this very important Statement. I associate myself immediately with everything the noble Lord, Lord Foster, said. My great fear about the gambling review the Government are undertaking is that they are pinning it to a review of the 2005 Act. Of the House of Lords committee recommendations, which numbered more than 60, probably only three or four required legislation. I would like to hear from my noble friend the Minister that changes that can be made immediately will not have to await the lengthy passage through the legislative process in both Houses—consultation, White Paper, et cetera—before the Government act.

Neglect by previous members of the Gambling Commission and previous Governments has led us to a situation in which gambling is having toxic side-effects, resulting in suicides and misery, although a lot of us will have a flutter and enjoy it. My great fear is that the speed of action will not be met by the Government and that attaching it to the legislative review will slow things down. There is not a day to lose in fixing a sector in very serious disarray, causing untold misery.

Baroness Barran (Con): I thank my noble friend for his remarks and his leadership of the committee in your Lordships' House. He is, of course, absolutely right that legislation is not required to change a number of things and to make gambling safer, particularly for those people, including children, who may be vulnerable.

I hope that he takes some comfort from the speed and energy with which we have acted, including during this most difficult of years, when every department, including my own, has been under tremendous pressure. He will be aware that in the last 12 months we have banned gambling on credit cards and mandated participation in the national self-exclusion scheme, GAMSTOP. We have tightened restrictions on VIP schemes, banned reverse withdrawals and mandated increased monitoring and intervention during Covid. We have no intention of slowing down with that energy.

Lord Berkeley of Knighton (CB) [V]: My Lords, I am glad that the Government are tackling this head on, and I have seen evidence of it. I watch a lot of sport, so I end up watching a vast amount of advertising for gambling. That is a very worrying statement because, as we have just heard, it also applies to children. I am sure that the Government want children to watch cricket, rugby or football—whatever it is—rather than spending hours glued to gaming. I have also noticed that these ads are beginning to be much more vociferous about the dangers of gambling, and it would be churlish not to acknowledge that, but it is also a sign that gambling companies are worried.

Gambling may be fun at a minor level, as the noble Lord, Lord Grade, said, but it is very big business, with huge profits engendered for gambling companies. Surely it is impossible—and I know that the Minister would agree with this—to put into financial terms the damage done to families through addiction and suicide. Should we not be restricting the amount of advertising? Will the Government try to quantify the value of advertising to sport, television and the Exchequer and attempt to set it against the damage done by addiction? As I say once again, especially when families are reduced to absolute misery and sometimes to suicide, there is no way of putting a financial price on that.

Baroness Barran (Con): The noble Lord is right that there is no way to put a financial price on the pain that some families have suffered. We have a responsibility to listen to those families, take their evidence incredibly seriously and give them a real voice. We are absolutely committed to doing that. As I mentioned in your Lordships' House last week, the first meeting that my right honourable friend the Secretary of State had in preparing for this review was with a group of people with lived experience of gambling harm of different types. So we take that incredibly seriously.

Progress is being made on advertising gambling in relation to sport. The industry has introduced measures in the last 18 months, including the whistle-to-whistle ban, which has significantly reduced children's exposure to sports betting advertising. We are taking, and will take, a very thorough look at this review and try to establish—and I mentioned areas that were contested—to what extent advertising is linked to problem and harmful gambling.

The Lord Bishop of St Albans [V]: My Lords, it is true that we cannot cost the human hurt and pain, but the Statement praised the tax receipts and employment benefits that come from the gambling industry but did not mention any of the financial costs of gambling-related harms. Will the Minister assure the House that, as part of the evidence-based approach, the review will include research into the cost of gambling-related harms—for example, for the 14 clinics dealing with gambling addictions, the cost of trials and imprisonment, the cost of JSA claims and the terrible cost of suicides—to ascertain whether the gambling industry is really a net contributor to the Treasury, as the Government claim?

Baroness Barran (Con): The right reverend Prelate raises an important point. He will be aware that, next year, Public Health England will report on its evidence review into gambling-related harm. That will look at both financial and human aspects. The review being led by DCMS is looking specifically at ways of recouping the societal costs of gambling. Again, I urge the right reverend Prelate to share the evidence that he has on those costs in the broadest terms.

Baroness Armstrong of Hill Top (Lab) [V]: My Lords, I thank the Government for their response to the Select Committee and for announcing the review. It is particularly important that the review looks at the impact of online gambling. We know that, far too often, the industry is at least one step ahead of the regulatory framework in devising temptation for gamblers. Those who are in deeper than they can afford are particularly vulnerable to such temptations. Can the Minister assure the House that the Government will bear down on this in the review and understand how the regulatory framework needs to interact with a constantly changing market on the internet? Will they pay attention to the increased activity of the many women who would not have dreamed of going into a betting shop but who now—in their misery, often—gamble online on their own and get into serious trouble? Will the Government make sure that they develop protections for the most vulnerable?

Baroness Barran (Con): The noble Baroness raises important points about online gambling, which is one of the fastest-growing areas of gambling. We are looking at the case for increased protections online, including in relation to stake limits. However, as I said in response to my noble friend Lord Grade, we are not waiting for the review to make online games safer, so the Gambling Commission will shortly publish its response to a consultation on a number of tighter controls on online product design which will aim to protect exactly those vulnerable groups to which the noble Baroness referred. She was also right to raise the issue of women gamblers, where we have much less evidence. We look forward to building a much more comprehensive picture and will aim to use that evidence to get the regulatory balance right.

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, I declare an interest as a vice-chair of Peers for Gambling Reform. We tread a fine line between allowing people to spend their money freely and preventing them from the extremes of their actions on their health and well-being. We ban the advertising of smoking and smoking in public places to prevent health deterioration. We encourage healthy eating and exercise to curb obesity levels and diabetes, but we have a reluctance to ban advertising for gambling, despite the misery that the addiction can bring. Italy, Belgium and Spain have introduced bans, while Australia has introduced a ban on gambling advertising during live sporting events between 5 am and 8.30 pm. Would the Minister consider following this lead on banning advertising to protect the young and vulnerable from falling into addiction?

Baroness Barran (Con): The noble Baroness has raised serious issues and has made some interesting suggestions. To be fair, I think that the noble Baroness would agree that gambling advertising is already subject to very strict controls. It cannot be targeted at children and it cannot appear during TV programmes or on websites that are aimed primarily at children. In fact, the ASA is currently consulting on further tightening these rules to limit gambling ads that appeal to children and vulnerable people. Gambling advertisers online have to obey the same rules as offline, but as I have said, the point of this review is to get the most convincing evidence possible from which we can move forward.

Lord Browne of Belmont (DUP) [V]: My Lords, sadly, the prevalence figures for problem gambling in Northern Ireland are significantly worse than those for England. In this context, the exposure of people to gambling advertising raises significant additional concerns in the Province. Although aspects of responsibility for gambling are devolved, the subject of gambling advertising is addressed on a UK basis. Will the Minister confirm that the needs of Northern Ireland, and indeed all parts of the United Kingdom, will be taken fully taken into regard as part of the gambling review as it relates to non-devolved matters like gambling advertising? Also, what steps will the Government take to engage with the people of Northern Ireland on this matter?

Baroness Barran (Con): The Advertising Standards Authority has strict rules on gambling advertising that apply across the UK—so not just GB but also Northern Ireland. They make it clear that the advertisements must be socially responsible and must never target vulnerable people. As I mentioned in an earlier answer, the ASA is currently in the process of consulting on these rules to further minimise the potential for harm from advertising being accessed by vulnerable people.

Lord Lancaster of Kimbolton (Con): My Lords, so that others can get in, I shall be brief. Can my noble friend point to any evidence on whether, following the action taken by the Government in October on the VIP schemes, there has been a material impact?

Baroness Barran (Con): I thank my noble friend for his brief question, and I will try to give an equally brief answer. We understand that the number of customers in VIP schemes has fallen by 70% since the commission challenged the industry back in October 2019 and the formal Gambling Commission rules for these schemes came into force at the end of October this year.

Lord Alton of Liverpool (CB): My Lords, I thank the noble Baroness, Lady Barran, for her obvious personal commitment to tackling the corrosive effects of gambling addiction. Last week during Question Time, in answer to a question that I put about unlicensed and illegal sites, she was good enough to say that these would be within the scope of the review. On the basis of the estimates from the Gambling Commission, can she say now how many websites that are accessed in the UK are operating without a licence and how many have ceased doing so as the result of financial transaction blocking? If she does not have this information immediately at her fingertips, would she be willing to commit to placing the relevant information in the Library of the House in the coming weeks?

Baroness Barran (Con): I thank the noble Lord for his comments. Unfortunately, we are not in a position to assess the size of the black market as accurately as he would like, perhaps because of its very nature. However, I can say that the number of complaints to the Gambling Commission about black market operators remains unchanged, and that thanks to enforcement action by the commission, in partnership with financial payment providers, 59 unlicensed operators have been removed.

The Deputy Speaker (Baroness Fookes) (Con): I next call the noble Lord, Lord Smith of Hindhead. He is not present, so I call the noble Baroness, Lady Bennett of Manor Castle.

Baroness Bennett of Manor Castle (GP): My Lords, I am sure the Minister is aware that Google this morning announced a new feature to allow users to block gambling and alcohol adverts. Given that this would allow potentially vulnerable people to protect themselves—reference has been made to the urgency of this with the online harms Bill coming—would the Government consider making it mandatory for companies to provide that feature on websites?

Baroness Barran (Con): I thank the noble Baroness for raising that point. I am afraid we will have to look at what the evidence says in relation to the last part of her question about making it mandatory, but the principle that she raises is important. We very much welcome moves by the major platforms that give individuals greater control over what they see.

Lord Mann (Non-Afl): Will the review look at the mental health benefits to working-class pensioners who follow racing and repeatedly lay bets—that is, the benefits of getting them out of the house—as well as the disbenefits to the minority who are addicted? Will it look at the perverse incentives that legislation could lead to in greatly expanding the illicit black market of online gambling, as people shift from what they are stopped from doing by the state to what they can find through Google and other software outlets?

Baroness Barran (Con): The purpose of the review is to keep the balance. Of course we acknowledge that the vast majority of people who go out and place a bet—whether once a week, twice a year, or however often it might be—may get great fun and pleasure from it, and it can be a form of social contact. However, we also know that there are people who pay a great price and suffer as a result. We are seeking to find a balance, so the evidence in relation to mental health in both directions will be taken seriously.

Lord Sikka (Lab) [V]: My Lords, gambling companies such as 888, Bet365, Betfair, Flutter, Ladbrokes, Paddy Power, Sky Bet and William Hill have used complex corporate structures in Guernsey, Alderney, Gibraltar, the Isle of Man, Ireland and Bulgaria to avoid UK corporate taxes. Indeed, in 2018, HMRC finally defeated Ladbrokes on its £71 million tax-avoidance scheme. Does the Minister agree that gambling companies avoiding UK corporate taxes should automatically lose their licence to operate here?

Baroness Barran (Con): Companies that avoid taxation illegally, whether they are gambling companies or any other companies, should be held to account for that. However, as the noble Lord is aware, gambling companies contribute about £3 billion to the Exchequer through the levy.

The Deputy Speaker (Baroness Fookes) (Con): My Lords, I am afraid that time is up on this item of business.

Ockenden Review

Statement

The following Statement was made in the House of Commons on Thursday 10 December.

"With permission, Madam Deputy Speaker, I would like to make a statement on the initial report from the Ockenden review, which was published this morning.

Before I update the House on the findings, I wish to remind the House of the tragic circumstances in which the review was established. It was requested by the

[Baroness Fookes]
Government following concerns raised in December 2016 by two bereaved families whose babies had sadly died shortly following their birth at the Shrewsbury and Telford Hospital NHS Trust. I am grateful to my right honourable friend the Member for South West Surrey Jeremy Hunt, who, as Secretary of State for Health and Social Care, asked NHS Improvement to commission the independent inquiry.

The inquiry is chaired by senior registered midwife Donna Ockenden, a clinical expert in maternity who was tasked with assessing the quality of previous investigations and how the trust had implemented recommendations relating to newborn, infant and maternal harm. As the report acknowledges, this year the country has rightly united in pride and admiration for our NHS, but we must accept that in the past not everyone has experienced the kindness and compassion from the NHS that they deserved.

The review team has met face to face with families who have suffered as a result of the loss of brothers and sisters, or who have, from a young age, been carers to profoundly disabled siblings. The team has also met parents in cases where there have been breakdowns in relationships as a result of the strain of caring for a severely disabled child or the grief after the death of a baby or resultant complications following childbirth.

The original terms of reference for the review covered the handling of 23 cases; however, since its launch more families have come forward and extra cases have been identified by the trust. As a result, the review now covers 1,862 cases, and this has led to an extension of its scope and delivery. An interim report has therefore been published today, and it contains a number of important themes that the review team believe must be shared across all maternity services as a matter of urgency. Indeed, I personally, and the Government, pushed to have this interim report at this point in time so that we could learn from the findings of the inquiry so far.

This is the first of two reports, based on a review of 250 cases between 2000 and 2018; the second, final report will follow next year. Today's report makes it clear that there were serious failings in maternity services at the Shrewsbury and Telford Hospital NHS Trust. I would like to express my profound sympathies for what the families have gone through. There can be no greater pain for a parent than to lose a child. I am acutely aware that nothing I can say today will lessen the horrendous suffering that these families have been through and continue to suffer. Nevertheless, I would like to give my thanks to all the families who agreed to come forward and assist the inquiry.

The review team held conversations with more than 800 families who have raised serious concerns about the care they received. I know that it has not been easy for them to revisit painful and distressing experiences, but through sharing their stories we can ensure that no family has to suffer the same pain in the future. From the outset the inquiry wanted families to be central to the team's work and for their voices to be heard, and I am pleased that the families were able to see the report first, this morning, shortly before it was presented to Parliament. I assure them, and Members of this House, that we are taking today's report very seriously and that we expect the trust to act on the recommendations immediately.

I thank Donna Ockenden and her team for their diligent work. Their valuable work provides essential and immediate actions to improve patient safety and ensure that maternity services at the trust are safe. Four of those actions are for the trust and seven are for the wider maternity system. The report sets out clear recommendations for what the trust can do to improve safety relating to overall maternity care, maternal deaths, obstetric anaesthesia and neonatal services.

The report also sets out actions that can make a difference to the safe provision of maternity services everywhere. They include recommendations on enhancing patient safety and how we can best listen to women and families, developing more effective staff training and ways of working, managing complex pregnancies and risk assessments throughout pregnancies, monitoring foetal well-being, and ensuring that patients have enough information to give informed consent. I welcome those recommendations and the others in the report. We will be working closely with NHS England, NHS Improvement and Shrewsbury and Telford Hospital NHS Trust, which have accepted each of the recommendations and will take them forward. We learn from these tragic cases so that we can give patients the safe and high-quality care that they deserve.

Patient safety is a big priority for me and the Government. We want the NHS to be the safest place in the world to give birth, and this report makes an important contribution towards that goal. Our ambition is to halve the 2010 rates of stillbirths, neonatal and maternal deaths, and brain injuries in babies occurring during or soon after birth by 2025. We have achieved early our ambition of a 20% decrease in stillbirths by 2020, but of course there is always more to do and we owe it to the families to get it right.

The Ockenden review is an important document that vividly shows the importance of patient safety. I assure the House that we will learn the lessons that must be learned so that the tragic stories found within these pages will never be repeated again. I commend this Statement to the House."

8.14 pm

Baroness Thornton (Lab) [V]: My Lords, I first declare an interest as a non-executive director for a London hospital trust. I thank the Minister for the debate today. This is a harrowing report, and the latest in a series of reports over recent years. It follows on the heels of the Morecambe Bay report, and we know that the East Kent report was launched earlier this year to investigate 54 babies dying between 2014 and 2019.

I first congratulate Donna Ockenden on this interim report. As she rightly says in her letter to the Secretary of State,

"we want to bring to your attention actions which we believe need to be urgently implemented to improve the safety of maternity services at The Shrewsbury and Telford Hospital NHS Trust as well as learning that we recommend be shared and acted upon by maternity services across England."

The scale of the findings in this interim report is distressing in the extreme. The relentless campaign of parents Rhiannon Davies and Richard Stanton, and Kayleigh and Colin Griffiths, must be recognised, and we must pay tribute to and thank them. At a time of greatest grief—the loss of a baby—they have done something vital to ensure that other parents do not suffer the losses they have.

Babies suffered fatal skull fractures from forceps use; women were left screaming in agony for hours; infants developed long-term disabilities as a result of terrible maternity care. There were baby deaths, high maternal deaths, and a catalogue of incompetence, neglect and cruelty. There was failure to handle high-risk cases correctly, an overzealous pursuit of natural, vaginal births leading to a reluctance to perform caesarean sections, and inadequate consultant supervision. Struggling mothers were mocked and called lazy. Mothers were blamed for their baby's death. Parents were not listened to; legitimate questions were not responded to and blocked; responsibility was not taken.

There was poor assessment of risk and no discussion of risks with mothers. Practice in assessing ongoing risk was poor. Escalating problems were spotted too late, leading to delay in transfer to hospital and death. There was poor ability to spot the refusal to acknowledge. Escalation was seen by midwives as a slight on their ability, not a prudent response to risk. As bad was the internal culture which allowed this to carry on without proper, effective management or regulatory oversight. There were adversarial attitudes between doctors and midwives. Perhaps the Royal Colleges need to talk to each other about the lack of mutual respect for their particular expertise and experience, and the value placed on these.

This is an interim report because Ockenden is rightly concerned that change needs to start immediately. One hopes that it has already been happening in the trust, rather than waiting for the full report and for the Government to take time to consider it. That might literally cost lives. It might mean more babies suffering damage, which means disability for the whole of their lives. This concerns not only deaths but sometimes severe disabilities, which cause huge suffering for the child and have a huge impact on and cost for their families and, indeed, for the state.

It is now clear that the Ockenden review will be far larger and take far longer than was originally intended. Can the Minister assure the House that the review has the resources necessary to complete the final report as soon as possible? There are seven immediate and essential actions outlined in this interim report. What progress is being made to implement these recommendations? What actions is NHS England taking to implement these interim recommendations across England? The turnover of leadership at board and officer level in this trust was surely a warning sign that something was amiss. Why was there not earlier support and intervention by NHS England? I know how appointments are made at senior level; they have to be signed off by NHS England. It must have known. What happened? One needs to ask the same questions of the CQC, both in terms of leadership instability at the trust and why the glaringly obvious warning signs of infant and maternal death were not acted upon sooner.

More broadly, can the Minister explain what action is being taken to ensure that there are enough staff in all maternity units? Perhaps the Government can, this time, commit to legislating for safer staffing levels. What is being done to tackle the current estimated 3,000 midwife vacancies?

Finally, for the vast majority of us who give birth in NHS hospitals, it is a wonderful experience, and a very safe one. We want that to be available to all women.

Lord Scriven (LD): I declare an interest, as my husband is a medical director for NHS England, but not in the region where this hospital is located.

From these Benches, I want to start by sending our heartfelt love and admiration—as, I am sure, do many across the House—to those parents and families who will have an empty place in their home this Christmas, due to the poor care they received at Shrewsbury and Telford Hospital NHS Trust maternity services. This report is distressing and shocking to read. It is hard to comprehend that it describes a care system in this country, in this century. It describes everything from the lack of basic things like human empathy, compassion and support, to poor medical practice and lack of carrying out best practice and adhering to agreed professional standards. This has led to grief, long-term disability, lifelong complications and the unnecessary deaths of newborn children and mothers.

This is not the first case of poor practice in maternity care that has come to light after brave families and parents have refused to be cowed and silenced. Morecombe Bay should have been a wake-up call for ensuring that systematic, integrated changes took place. It is clear that cultural and systematic change at scale and in depth has not happened, despite previous warnings. The healthcare regulator this year reported that four out of 10 maternity services do not meet the safety threshold of care. I ask the Minister why, in 2020, that is an acceptable statistic.

In 2017, the £8.1 million national maternity training fund was withdrawn. Does the Minister now, in hindsight, regret this, and will he seek to re-establish this fund urgently? Will the Minister inform the House who is responsible—politically and managerially—within NHS England for ensuring that, this time, the changes highlighted are implemented, particularly in the seven areas seen to be urgent? What is the timetable for implementing the seven immediate and essential actions required across the NHS? What resources will be allocated to implement the 27 local and 7 immediate and essential actions required?

This must not be another report that gets sympathetic words from those with political and managerial responsibility but then ends up on a shelf gathering dust. That is why the Minister needs to outline a timetable for implementation, what resources will be allocated and who, ultimately, is accountable for ensuring that the systematic, deep changes happen, so that no family has to deal with the kind of grief and trauma that so many families in this report have had to deal with.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]: My Lords, I start by echoing the very thoughtful words of the noble Baroness, Lady Thornton, and the noble Lord, Lord Scriven, in their reflections on this harrowing report. It does make desperately awful reading. Any noble Lord who took the time to read the report would surely be enormously moved, not just by the story of the cultural and practical problems at the Shrewsbury and Telford Hospital NHS Trust, but also by the personal testimony of Rhiannon Davies—who fought an 11-year campaign after the death of her daughter, Kate—and of Kayleigh Griffiths. They both campaigned stubbornly and with great determination after the deaths of their daughters. They have done a phenomenal thing in bringing this situation to light, and we owe them our compassion and our thanks for their hard work and determination.

We also owe great thanks to Donna Ockenden, who has done a memorable job in terms of this report. It is a massive enterprise that is the result of a huge human investment of time and emotional commitment by Donna and her staff. The report itself is not only huge in scale but great in the humanity with which it deals with this difficult subject. We give great thanks for that.

I reassure both the noble Lord, Lord Scriven, and the noble Baroness, Lady Thornton, that we absolutely take this report seriously. It does outline major issues in the culture of many maternity wards. That is a cultural challenge that is both recognised by the Royal College of Midwives and the Royal College of Obstetricians and Gynaecologists, and something that they are working on very well indeed. But I accept that more can be done. In its application, the Government commit not only to implementing the recommendations at trust level but to ensuring that the message made very clearly in the Ockenden report is heard throughout the NHS system.

We are committed to a major investment in the education around midwifery, which includes the rewriting of curriculums, and the Better Births programme, which has already delivered enormous value. There will be a maternity programme review that will update the Better Births programme. There has also been a £9.4 million investment in maternity safety pilots, some of which will be focused on training and some of which will be on safety measures—exactly the kinds of measures that are alluded to in the report.

But the most challenging and, I think, moving element of the report is the stories of the parents themselves and how they were not listened to. This echoes the findings of the report by the noble Baroness, Lady Cumberlege, which, I think, has moved everyone in the House. Time and again we hear the same story, of how those who have witnessed wrong practices and poor culture in the NHS have had to fight the establishment so hard in order to have their voices heard. If any noble Lords heard Rhiannon Davies speak about her own experiences campaigning on this, who would not be moved by that?

We take on board very seriously the recommendations of the noble Baroness, Lady Cumberlege, for a patient safety commissioner. We acknowledge her amendment to the Medicines and Medical Devices Bill, and we look forward to the Report stage of that Bill in the new year.

I would also like to remind noble Lords that all maternity major incidents—certainly neonatal deaths, stillbirths and brain injuries—are now routinely referred to the Healthcare Safety Investigation Branch, which does an independent investigation. This is an important development since many of the incidents reported by the Shrewsbury and Telford Hospital NHS Trust report. HSIB is doing extremely important work, and I believe that this will be a very large improvement.

Both the noble Lord, Lord Scriven, and the noble Baroness, Lady Thornton, raised leadership. I reassure them both that we have put in place much stronger surveillance, both by the regulators—the CQC and others—and by NHS England to keep track of these sorts of incidents, so that we can much more quickly identify weak spots in the area.

On the question of staffing levels brought up by both noble Lords, I reassure them that the recruitment of midwives—3,000 were committed to in 2018—is going apace. We have committed to a major investment in marketing in order to ensure that we hit our targets on that.

The noble Lord, Lord Scriven, asked whether we were committed to change, or whether this report will sit on the shelf and gather dust. I reassure the noble Lord, and all noble Lords, that we are still very much committed to the maternity ambition to halve stillbirths, deaths and injuries between 2010 and 2025. We are already nearly half way there on that ambition, and we will work relentlessly to ensure that it is achieved.

The Deputy Speaker (Baroness Fookes) (Con): We now come to the 20 minutes allocated for Back-Bench questions.

8.29 pm

Lord Patel (CB) [V]: I declare an interest, because I was privileged to work for over 35 years in a maternity unit, with brilliant midwives and doctors—I was a lead obstetrician—to which the events described in this report were totally alien. So we have another report on the failings of maternity services. The root cause of this, as found in previous reports, is the unquestioning practice of regarding all pregnancies as low risk and striving for a natural birth. Does the Minister agree that, for better outcomes for the mother and her unborn baby, society should expect a better working relationship between midwives and obstetricians, while recognising their individual professionalism? This report should be the starting point to making that happen. The Minister mentioned that both Royal Colleges were working together to bring this about. They might be the solution but, if they are not, they will be the ones who are blamed next.

Lord Bethell (Con) [V]: My Lords, I pay tribute to the insight of the noble Lord, Lord Patel, who brings with him not only expertise as an obstetrician, but deep involvement in the patient safety agenda. I completely agree that collaboration and close working relationships between midwives and obstetricians absolutely benefit the collective care of mothers and babies. When that does not happen, and when agendas other than patient

safety come into play—around natural births or what type of person should be present at a birth—it is absolutely to the detriment of the safety of both mother and child. I am absolutely determined that the Royal College of Midwives and the Royal College of Obstetricians and Gynaecologists step up to their leadership role in resolving this cultural stand-off. As the noble Lord rightly put it, in almost every maternity centre in the country a fantastic service is provided by clinicians and nurses—but, when that chemistry goes wrong, patients suffer, and we cannot let that happen.

The Deputy Speaker (Baroness Fookes) (Con): I do not see the noble Baroness, Lady Altmann, in her place, so I call the noble Baroness, Lady Blackstone.

Baroness Blackstone (Ind Lab): My Lords, I declare an interest, as set out in the register, as the chair of the trustees of the Royal College of Obstetricians and Gynaecologists. As the Minister has admitted, this report makes shocking reading, so what steps will the Government take to monitor the improvements they are pledging for maternity services right across the country to avoid the tragedies that are revealed by this review? Will the Government commit to publishing the findings of any future evaluation and, in particular, data on the avoidable deaths and long-term disabilities that result from failures in the care of women during childbirth?

Lord Bethell (Con) [V]: My Lords, policy officials at the DHSC are working with both the CQC and NHS England on improving our surveillance and the publication of data, as the noble Baroness rightly points out. A key development in this area is the work by HSIB to investigate each and every death and major incident in maternity suites. That provides an absolutely invaluable resource to understand where and when things go wrong. We will continue to publish those reports as they happen and will learn lessons from their insights.

Baroness Bennett of Manor Castle (GP): My Lords, much of this debate has already focused on the issue of staffing shortages in our NHS, particularly among midwives. I am sure that the Minister is aware of the survey last month from the Royal College of Midwives, which showed that 83% of midwives did not believe that their trust or board had enough staff to provide a safe service and 42% said that half or more of their shifts were understaffed. The Minister referred to recruitment campaigns and investment in future training, but the Ockenden review calls for an immediate focus on relationship building, training and things that will take a great deal of time and resources to deliver, where there are problems. I cannot see any alternative if we are to fill some of those gaps immediately. Training will take many years, but an overseas recruitment of midwives will bring in the staff we need to create the space to allow people to have that training—that time and reflection.

Lord Bethell (Con) [V]: My Lords, I respectfully disagree with the noble Baroness's insight—the Ockenden review does not point the finger at staffing levels in relation to the problems; it points the finger at a number of items, particularly the cultural problems that emerge when differences of opinion between clinicians and midwives arise and where a culture of respect breaks down. Those cultural differences can be improved by what we would politely call education; it is essential that we invest in the right kind of education in order to bring midwives, obstetricians and gynaecologists closer together and to break down the hierarchical differences and the ideological differences about the best way to have a baby.

Lord Lansley (Con): My Lords, as a Secretary of State responsible for the health service for some of this period—two years out of two decades—I share in the responsibility for what happened here and for the fact that it was not known about and that action was not taken sooner. I am sure that others who have been Ministers in the department over these two decades will feel likewise.

What is shocking is not only the individual trauma that parents have suffered but the scale of what the Ockenden review discloses—we are grateful to Donna Ockenden and her colleagues for persisting in trying to understand and disclose the scale of what has happened. I ask my noble friend about our responsibility, which was, of course, that there should be external oversight and action taken when these things go wrong. From my point of view, one of my objectives was that there should be more clinically led commissioning so that local clinicians would understand what was happening and have the power to step in.

The Ockenden report shows that, in May 2013, the clinical commissioning groups set up a review that, in October 2013, reported:

> "The overall findings of the review demonstrate that this is a safe and a good quality service".

I encourage Donna Ockenden and the department to look very carefully at how they could ensure that local clinicians responsible for commissioning take that responsibility seriously and act upon it.

Lord Bethell (Con) [V]: On behalf of the Chamber, I thank my noble friend for his touching testimony. He is entirely right; there are two CCGs in the local area: the Telford and Wrekin CCG and the Shropshire CCG. They did exactly what they should have done in 2013, launching an investigation into the levels of service at the Shrewsbury and Telford Hospital NHS Trust. It is not clear why the findings of that report turned out as they did; nor is it clear why other interventions, or potential interventions, by the CQC and other regulators did not get to the bottom of the problem. Those questions will be addressed in the second of Donna Ockenden's reports, in 2021; there has not been time for them all to be addressed in the interim report, but there is much more to go into, and this is undoubtedly one of the important points she will need to address.

Lord Hunt of Kings Heath (Lab): My Lords, I declare an interest as a member of the GMC board. Nothing can excuse the repeated failures and the lack of compassion and kindness exposed by the review. What is so striking is the paragraph in the report that refers to the eight chief executives working in the trust over a period of 10 years and 10 chairs over 20 years —no wonder there is a leadership and governance issue in the trust. I ask the Minister: what on earth

[LORD HUNT OF KINGS HEATH]
have NHS England, NHS Improvement and the CQC been doing? It seems that their interventions, which I suspect have been punitive in nature, have not provided the kind of support that is needed.

Does the Minister agree that we need a wholly new approach to this trust, which gives it high-level attention and provides stability in leadership—not a constant turnover because of an intervention by one or other of the many regulators that can do this—and above all, support from neighbouring services that can provide help? I suspect that this trust needs an awful lot of help to get out of this terrible situation.

Lord Bethell (Con) [V]: My Lords, I completely take on board the noble Lord's observations. It is true that Donna Ockenden's report alludes to the failure by senior leadership to monitor and intervene where clearly there were problems. However, let us not confuse correlation with causation. This was not caused by a failure of senior leadership, but by a breakdown in the basic management systems and culture of the maternity services within the trust. That should have been addressed by the senior leadership, but it was not necessarily caused by them. I completely endorse the observation of the noble Lord that neighbouring trusts have an important role to play in checking in and benchmarking behaviours. That is a point made very clearly in the Ockenden report, and one that I hope they will step up to.

Baroness Uddin (Non-Afl) [V]: I salute the courage of the parents of Kate Stanton Davies, Pippa Griffiths and so many others in their tenacious personal search for truth and justice. Donna Ockenden's report was harrowing reading. The pain, trauma and inhuman disregard for the safety of baby and mother was palpable, profoundly damaging confidence and trust in maternity services. It made me relive my own decade-long failed attempt to seek information on whether my lengthy abandonment on a bed overnight after 48 hours of labour pain has anything to do with my now 42 year-old son's brain damage and lifelong disabilities. I was dismissed constantly, admonished for "being an Asian mother too ashamed to have given birth to a disabled child", which is far from the truth about a much-loved son.

Sadly, I was not alone, as the Ockenden report details. It has been repeatedly confirmed by so many others and by the first maternity advocacy scheme, which was set up in the 1980s to address the high postnatal mortality rate of mothers and babies among Bangladeshi, Pakistani, Somalian, Vietnamese and African women, whose maternity experiences, even today, remain inconsistent and patchy. Therefore, can I ask the Minister what consideration can and will be given to historic grievances in any future review of maternity services, given what the right honourable Jeremy Hunt in the other place, and Donna Ockenden, have said about the experience of mothers and babies highlighted being only the beginning of unearthing potential malpractice across England?

Lord Bethell (Con) [V]: I join others in paying tribute to the personal testimony of the noble Baroness. The story that she tells is extremely moving. One cannot think about the challenges and difficulties that she must have had since that awful night, which she so movingly describes. The report makes it clear that those with a BAME background have disproportionately high rates of difficulty at birth and in maternity services, something which undoubtedly we need to look at more carefully. However, the Ockenden report is not a historic grievances report, and that will not be the focus of our response.

The Deputy Speaker (Baroness Fookes) (Con): Lord Mann? No? We will move on to the noble Baroness, Lady Stuart of Edgbaston.

Baroness Stuart of Edgbaston (Non-Afl): My Lords, this is the second time in six months that this House has been exposed to quite harrowing tales of patients' experiences in the NHS. I am glad that the Minister mentioned the report by the noble Baroness, Lady Cumberlege, and her call for a patient safety commissioner. Both the Ockenden and the Cumberlege report identified a problem with the culture in the NHS. We cannot go on having review after review. While it is important to listen to the patients' experiences as part of putting things right, we must learn comprehensive lessons. Will the Minister therefore say just a little more as to how he intends to take the idea of the patient safety commissioner forward, and in particular how that patient safety commissioner will be independent of and not part of the NHS?

Lord Bethell (Con) [V]: My Lords, it would be premature of me to describe in too much detail how any patient commissioner may work, since we are half way through the Bill's progress. But I would like to reflect on the very good arguments made by my noble friend Lady Cumberlege and her supporters during the Bill's passage at Second Reading, in Committee and in the amendment-moving process. She has made very convincing arguments for how a patient safety commissioner can be an ultimate destination for those who have not found due process and a sympathetic ear elsewhere in the consideration of their grievances. It is entirely right that any commissioner, whether a victims' commissioner or any other kind, should feel a strong sense of independence; that is a total benefit that we endorse in the provision of any commissioner. But commissioners are not enough; what we need is a change in culture. That is why Aidan Fowler, the DCMO looking at this, works so hard and why we have a patient safety agenda that works to address this at every level of hospital trusts.

The Deputy Speaker (Baroness Fookes) (Con): All speakers have now been called, so we move to the next business without a break.

UN Mission in Mali: Armed Forces Deployment

Statement

The following Statement was made in the House of Commons on Wednesday 9 December.

"With permission, Mr Speaker, I would like to make a Statement to update the House on UK support for the UN stabilisation mission in Mali, which supports the peace process, helping to counter the spread of instability in the Sahel.

This month, 300 United Kingdom troops led by the Light Dragoons battlegroup will complete their deployment into the United Nations mission in Mali, known as MINUSMA. Over recent years, Mali has become one of the most unstable countries on the African continent. Terrorist aggression and conflict between communities have been on the rise and the United Nations Multidimensional Integrated Stabilization Mission in Mali is mandated to support the Malian people in their effort to secure sustainable peace, to support the re-establishment of state authority, to protect civilians and to promote and protect human rights in Mali.

By 22 December, the majority of our 300 UK Armed Forces personnel will have deployed to MINUSMA and completed quarantine. Our contingent consists of 250 troops from the Light Dragoons, the Royal Anglian Regiment and other attached personnel, and a further 50 forming a national support element. They will soon begin operations in Mali, joining some 60 other nations contributing to the UN mission.

The UK has committed to a three-year deployment to MINUSMA, with a review to be held at the 18-month point. UK personnel will deploy on six-month operational tours. Accordingly, the first deployment, led by the Light Dragoons, will be replaced by a second contingent, led by the Royal Anglian Regiment, in the summer of 2021. This Government take their responsibility as a permanent member of the UN Security Council seriously. Our deployment to MINUSMA reflects our continued commitment to, and growing leadership in, multilateralism and international peace and security. Our nation has a proud peacekeeping track record, as we demonstrate global Britain in practice. This deployment builds on a successful multiyear commitment to the UN mission in South Sudan, where UK peacekeepers were responsible for building hospitals, bridges and roads.

In the Sahel region, more than 15 million people need humanitarian assistance. Some 11 million are food insecure and more than 3 million are displaced because of the conflict. As with many conflicts around the world, women and girls in Mali are disproportionately affected by the continuing instability. The Sahel is the worst region on earth to be an adolescent girl seeking 12 years of quality education, as it accounts for an astonishing 7% of the world's population of primary age girls who are out of school. By 2030, almost one in five women aged 20 to 39 in the continent of Africa who have no education will be living in the Sahel.

Mali is at the forefront of countries in the Sahel affected by instability. Terrorism and conflict are sharply on the rise. Mali has already registered more deaths due to violence this year than any previous year in the past decade. This violence is costing lives, hindering development across one of the world's poorest countries and spreading instability to the wider region.

International action is the right thing to do from a humanitarian perspective, but history shows us that international efforts to restore law, order and security are also the best way to prevent unstable regions from becoming safe havens for terrorist groups. It is in the UK's interests to act.

Terrorist violence and conflict have risen sharply over recent years, and the permissive environment provided by the current instability in Mali and the wider region creates the space for developing threats. That harms UK interests and also those of our allies and partners, especially France and others in Europe. It is in all our interests that we work together to protect civilians and help build a safer, healthier and more prosperous future for the region.

Our contribution will provide critical capabilities to the UN mission at a vital time. We can have genuine impact on the mission's overall approach. To help reduce the spread of conflict and insecurity contributes to the protection of civilians and supports Mali's pathway to sustainable peace. This deployment is a vital part of our work in the Sahel to build stability, bolster conflict resolution, improve the humanitarian response and strengthen partnerships between the international community and regional Governments in responding to the crisis.

We will be joining a UN mission led by a civilian special representative of the UN Secretary-General and an international peacekeeping force of over 60 nations, led by the Swedish UN mission force commander Lieutenant General Dennis Gyllensporre. It is a truly global collaboration, with contributions from our western allies, including Germany and France, and African nations contributing large contingents to support their regional stability.

The initial objective of the first rotation of troops will be to understand the operating environment so that they are best placed to support the UN mission going forward. The UK task force will be under the command of the Light Dragoons' commanding officer. Armed with cutting-edge technology, our troops will provide a specialist reconnaissance capability, which aims to improve the mission's overall performance, particularly in protecting civilians. Our contingent will offer crucial support to the mission to better understand threats and to shape the mission's response, enabling intelligence-led operations across the mission's mandate.

Our MINUSMA deployment complements existing commitments we have in the region, including helicopter support to Operation Barkhane, the French-led counter-terrorism initiative in the Sahel region. Although the two missions are complementary, they are distinct in their objectives and tactics. Our experience in Mali will also help to develop our world-class training for peacekeepers that we provide each year in Africa. Our aim is that the response to more security challenges in Africa will be African-led, and we are mentoring and training others on the continent to help us achieve that goal.

The UK believes in peacekeeping as a way to stabilise and contain conflict. Our contribution to MINUSMA, alongside our enduring commitments to the UN peacekeeping operations in Cyprus and Somalia and the staff officers we have deployed to six other UN missions, is the UK playing its part in a multinational effort to contain the worst consequences of violent conflict and to help build confidence in the political process under way supporting longer-term peace and reconciliation.

UN peacekeeping operations are currently protecting more than 125 million of the world's most vulnerable people across 13 different missions, consisting of more

[Baroness Fookes]
than 98,000 troops, police and civilians. Combined, they provide a critical tool in containing and reducing conflict in the world's most fragile environments.

To function effectively, UN peacekeeping relies on contributions from its members, especially more experienced militaries such as the UK's. Our deployment is a highly capable contingent able to support stronger mission performance and longer-term reform. The UK's military contribution to UN peacekeeping in Mali is a clear illustration of how our defence and security capabilities can contribute to the UK's role as a force for good in the world, working hand in hand to support the Government's development and diplomatic agenda.

It is important to stress that deploying to MINUSMA does not come without risk. However, our forces are world class and we have provided them with the right training, equipment and preparation to succeed in a complex operating environment. We have taken steps to mitigate the risks, and I am confident that our troops will make the UK proud by having a strong impact on the ground in Mali. They will bolster our standing in the United Nations and will help us in our endeavours to make the UN and its peacekeeping missions as effective as possible.

As a permanent member of the United Nations Security Council, we are fully committed to supporting the UN's peacekeeping missions around the world and to encouraging them to be as effective as possible. Our MINUSMA deployment is a key part of that commitment and, as the Prime Minister recently noted, our uplift in defence spending should allow the UK to shape international security and provide a stronger contribution to global Britain.

Finally, may I thank all those serving in Mali and around the world this Christmas for their service to our nation and extend that gratitude to their families, friends and loved ones who will be celebrating Christmas in their absence? I know everyone in all parts of the House will want to wish all our service personnel serving over Christmas a safe tour and as merry a Christmas as they can manage."

8.47 pm

Lord Touhig (Lab) [V]: My Lords, today's repeat of the Mali deployment Statement is very much welcomed because, whenever British forces are deployed, it is right—indeed, absolutely necessary—for Ministers to come to Parliament to explain the reasons, outline the objectives and answer questions. I am sure that the whole House welcomes the fact that the noble Baroness is here to listen to the views expressed and to respond to questions the Statement made in the other place gives rise to.

Britain has rightly been described as a soft power superpower, and around the world many millions of people owe their quality of life today to support from Britain over many years now. In a report published in 2014 entitled *Persuasion and Power in the Modern World*, a Select Committee of this House chaired by the noble Lord, Lord Howell of Guildford, was tasked with examining the use of soft power in furthering Britain's global influence and interests. The report is well worth further examination, stressing as it does the need for Britain to remain a top-rank player or face being outwitted, outcompeted and increasingly insecure.

The Mali deployment means we are sending our troops into the most dangerous UN mission in the world today. Our forces go with the respect—and more, the affection—of everyone in these islands. Our forces deploy to an area of the African continent that was in former times part of the French colonial interests. No matter the divisions and travails closer to home over Brexit, we go to Mali as part of the UN mandate —yes, we do—but we go in support of our French friends and allies, and that is how it should be: a common interest and a common responsibility to help bring peace and stability.

Our troop deployment is more successful thanks to the Royal Air Force at Brize Norton. Here I echo the words of Brize's station commander, Group Captain Emily Flynn, who said that the deployment was a good example of the important and often unnoticed work that is carried out by personnel there. Brize Norton is the centre of a world network supporting Britain's military operations across the globe and we should be proud of that.

We are told that our 300-strong Light Dragoons task group will be helping protect people from violence and encouraging political dialogue. Can the Minister tell us something about the latter role of encouraging political dialogue that our forces will engage in?

In the Statement, we are reminded that in South Sudan British forces were engaged in building hospitals, bridges and roads. This work, of course, requires the deployed forces to possess specialist skills in building and construction. Can the Minister say, thinking of that role, how we might engage in it in partnership with forces from other countries in Mali?

The Statement tells us that the region in which our troops are deployed is the worst place on earth to be an adolescent girl as it accounts for 7% of the world's population of primary-age girls who are not in education. What plans, if any, do we have to help address this? I can still remember when, together with my noble friend Lord Murphy of Torfaen, I attended a lecture given by the then Chancellor Gordon Brown in Edinburgh almost 15 years ago, when he powerfully argued that the greatest gift and help that we can give the developing world is free education.

In a world ever more watchful of threats from terrorist violence, Mali, as the Statement emphasises, poses a real danger by creating a space for developing new terrorist threats. Without going into any great detail in a security-sensitive matter, can the Minister confirm that our forces will work closely with our allies, sharing intelligence gathering to the mutual benefit and protection of the citizens of the nations who have deployed troops in Mali?

Finally, as we approach the Christmas season, the whole House would echo the Statement's grateful thanks and good wishes to our troops there. In this awful Covid time, when families across Britain cannot be together, that separation is even harder to bear for our service personnel and their families. Can the Minister assure the House that every preparation is in hand for our troops in Mali to be in contact with their loved

ones here at home over Christmas? I am sure that I am not alone in believing that, if the families of our service men and women at home are happy, our troops, wherever they may be asked to serve around the world, will be happy and content. In an uncertain world, Britain's soft power capability and our long-established and respected role as a peacemaker have never been more important or more needed.

Baroness Smith of Newnham (LD) [V]: My Lords, I start by echoing the words of the noble Lord, Lord Touhig, and the Secretary of State in expressing my gratitude to our service men and women. In particular at this time we send our thanks and best wishes to those serving in Mali and deployed anywhere else in the world in the run-up to Christmas. In particular, we send our thanks and gratitude to the families of our service men and women, without whom they would find doing their job serving our nation so much harder.

The deployment to Mali is, as the noble Lord, Lord Touhig, said, to be welcomed. It is one that the previous Secretary of State for Defence flagged up in the middle of 2019, so it is not a surprise; it is part of an international UN mission, and clearly something that our service men and women are trained for. It is precisely the sort of mission that is to be welcomed but, as the noble Lord, Lord Touhig, pointed out, it is in one of the most dangerous parts of the world. In his Statement, the Secretary of State suggested that our service men and women were well trained and equipped for the mission and have the right training, equipment and preparation to succeed in a complex operating environment. Could the Minister confirm that she believes that those deployed to Mali are appropriately kitted out and that they are not placed in any greater danger than is inevitably the case in such a deployment?

As the noble Lord, Lord Touhig, also pointed out, Mali is a country where it is extremely dangerous, because of terrorist activities, but particularly difficult to be a woman—or a girl being educated. To what extent will the change to humanitarian aid impact on Mali? The Minister is clearly responding primarily for the MoD but she is replying for the Government, so can she confirm that the Government remain committed to supporting women and girls?

In particular, what is the Government's wider approach to sub-Saharan Africa? I note that the noble Baroness, Lady Anelay of St Johns, will speak later. She admirably chaired the committee of your Lordships' House on which I sit, and which produced a report on sub-Saharan Africa in July. We have not yet had the opportunity as a House to debate that report, but one issue that the committee kept coming across was a difficulty in understanding whether the Government actually had a strategy for Africa. It would be helpful to understand from the Minister how far Mali fits into such a strategy. Clearly, the UK is playing an important role here as part of a UN mission, but does that fit as part of the Government's wider strategy?

Overall, this is clearly a welcome mission, even if it is very unfortunate that Mali requires such intervention. It is welcome that the UK continues to play a global role. It is also notable that so much of that role is with our allies, including France and Sweden. Can the Minister reassure the House that, as we move forward, such security relationships will continue to be as deep and fully fledged as they have been? Those relations matter, regardless of the UK's relations with the European Union. If the deployment to Mali fully reflects what our service men and women should be doing, sending the Navy to deal with French fishermen is perhaps not the best use of our resources.

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, I thank the noble Lord, Lord Touhig, and the noble Baroness, Lady Smith, very much for their helpful and constructive comments. On behalf of the Government, I also thank them for their tribute to our Armed Forces personnel and, as the noble Baroness so rightly pointed out, their families. Our thoughts are certainly always with our Armed Forces personnel and their families when there is any deployment at all. The noble Lord and the noble Baroness raised a number of points, which I shall try to deal with as comprehensively as I can.

The noble Lord, Lord Touhig, raised the issue of encouraging political dialogue and how we might contribute to the need for construction and engineering skills. I say to him that the whole reason that the United Kingdom is contributing to this United Nations mission in Mali is that the underlying instability means that it is very difficult, in the face of that turbulence, to move on to the more positive and constructive issues to which he refers. We recognise that while our contribution to the security response is important, security interventions alone will not address the instability in the Sahel. We continue to advocate for state-led progress on the peace process in Mali, and for political and institutional reform in the wider region, with greater ownership and leadership of reform efforts by G5 Governments. I reassure the noble Lord that he raises an important point, but the priority at the moment is trying to address the issues of instability and lack of security.

The noble Lord and the noble Baroness also raised the issue of women. It is the case that women have been badly impacted by the consequences of the instability and turmoil. However, it is also the case that there is some cause for optimism. Over the past five years, we have seen progress. Widespread fighting between the parties has not returned, the reconstitution of a national army from members of the former armed groups and—this is the important point—the inclusion of women in the peace process, including MINUSMA's role as mediator, have been critical to this relative stability. Important points were made about the position of women, how such civil unrest can impact on them and how we can do our best, as a contributing country, to encourage a more enhanced role for women.

The noble Lord and the noble Baroness asked what our objectives are. The Foreign Secretary recently chaired a review process looking at all the strands of the UK ODA budget. The review safeguarded support for five ODA priorities: the very poorest—that is, poverty reduction for the bottom billion; climate change; girls' education, which will, I hope, reassure the noble Lord and the noble Baroness; Covid-19; and the role of Britain globally as a force for good.

The noble Lord also raised the important issue of how we work with other forces from contributing countries and allies. Indeed, the noble Baroness also

[Baroness Goldie]
talked about that and about our security relationships. I commend them both: they have touched on something really significant. At the heart of this is the fact that we are part of a United Nations mission and we are proud to play our role. We want to be a positive influence to help those countries that have suffered such insurgency and insurrection, particularly Mali, to move on to a better and more stable course. We want that because it is good not just for Mali but for the broader security of the region and the world at large. As the noble Lord alluded to, if we can bring greater stability to that area, we can begin to introduce more robust political processes. If we look at the country's infrastructure, a great deal of progress has been made in taking the country forward.

The noble Lord and the noble Baroness will be aware that we work closely with France in particular. We are part of the Operation Barkhane mission, which is operative in the Sahel. Unlike MINUSMA, Barkhane is a counterterrorism mission, of course. It has a different purpose but it is an example of the importance of working with allies whom we know well, with whom we get on and with whom we are very proud to work in partnership to improve the overall situation.

I think that I have managed to cover the points made by the noble Lord and the noble Baroness. If I have omitted anything, I shall have a look at *Hansard* and undertake to rectify it. Again, I express to both the noble Lord and the noble Baroness my appreciation of their constructive comments, particularly their recognition of the tremendous role that our Armed Forces are asked to play.

The Deputy Speaker (Baroness Morris of Bolton) (Con): My Lords, we now come to the 20 minutes allocated for Back-Bench questions.

9.03 pm

Baroness Anelay of St Johns (Con): My Lords, I also pay tribute to those who serve in Mali and wish them a safe return.

The noble Baroness, Lady Smith of Newnham, referred to the report of our Select Committee on International Relations and Defence, *The UK and Sub-Saharan Africa*. In it, we welcome

"the UK's increased attention to instability in the Sahel"

and its decision to contribute troops to the MINUSMA mission. However, we received evidence that

"the UK still had 'lessons to learn from Iraq and Afghanistan', including those relating to equipment, regional understanding and engagement with local counterparts."

Can my noble friend the Minister say what the MoD has learned from that experience, which is now informing its approach to the support we are giving to MINUSMA's important mission?

Baroness Goldie (Con): I thank my noble friend for raising a very important point. I also pay tribute to her role as chairman of the International Relations and Defence Committee and to its very positive and useful report, *The UK and Sub-Saharan Africa: Prosperity, Peace and Development Co-Operation*. My noble friend was in discussion with the FCDO. I think she received a fairly full letter of clarification about the points she felt were not addressed. I hope that has gone some way towards reassuring her of the Government's good intent to make a positive contribution in this region of Africa.

Preparation and equipment are very important. There has been analysis of the tasks the UK contingent will conduct on mission, particularly the terrain and the threat they will face. For example, the deploying vehicles have been specifically selected to address these singular and challenging demands. There will be a number of vehicle types used for different tasks. They have previously been tested on operations and will include the Foxhound, Ridgback, Coyote and Jackal. When I read these, I wondered whether we were talking about a zoo, but we are talking about mechanical devices on wheels that will clearly be a very important support to our forces out in Mali. These vehicles have been chosen for a specific purpose. The analysis identified these types of vehicles as being most appropriate for the terrain and the tasks faced.

Our Armed Forces are professional and well trained. This is a United Nations mission, so they are under the command of Lieutenant General Gyllensporre, who is the Swedish commanding officer. I say to the noble Baroness that, yes, previous conflicts have identified the particular challenges of operating in difficult terrain—in coping with extremes of heat or cold—and lessons have been learned from that. I reassure my noble friend that our Armed Forces and their commanding officers are very mindful of that before asking troops to deploy to any region in the world.

Lord Craig of Radley (CB) [V]: My Lords, is the Minister aware that more than 200 MINUSMA troops have been killed and others wounded? This deployment to a faraway country of which we know little is risky. For the record, and to reassure the families and loved ones of any UK casualty, will the Minister explain why deploying in Mali fully justifies these acknowledged dangers to our forces? Have our rules of engagement been agreed with the UN force commander?

Baroness Goldie (Con): The noble and gallant Lord raises a very important point. We very much hope our Armed Forces remain safe and that they will not come under threat of loss of life or of injury. He is right to inquire why they are there, what we expect them to do and how we expect them to do it. As I said earlier, this is part of our contribution to the security response. We recognise that security interventions alone will not address the instability in the Sahel and continue to advocate for state-led progress in the peace process in Mali. As I said earlier, that involves political and institutional reform in the wider region.

We believe it is very important the United Kingdom supports the United Nations in attempting to deal with this area of instability. It matters because if that instability is not addressed then it has an effect of contagion. Instability is a threat that can spread. It can allow hostile operators to flourish and can encourage them to take their unwelcome activities to other countries. That could include the United Kingdom. There is an underlying purpose and we believe it is important that the United Kingdom supports the United Nations in this important mission.

I said earlier that the mission, being a United Nations mission, is led by a civilian—a special representative of the United Nations Secretary-General. The peacekeeping force element involves our own military and highly trained soldiers. Because it is a peacekeeping mission, and our forces are principally concerned with reconnaissance, this is clearly slightly different from an operation such as Operation Barkhane. But our force will provide critical capabilities at a vital time. MINUSMA was selected as a mission on the basis that it was where the UK could provide maximum benefit based on the expertise the UK Armed Forces have to offer. I reassure the noble and gallant Lord that this is a carefully constructed contribution from the UK; it is for a specific period; it involves an identified, set number of personnel; and it is a contained contribution.

Lord Boateng (Lab) [V]: My Lords, the struggle against poverty and for development in the Sahel requires peace and security in that increasingly troubled region. No country has invested more in development in ECOWAS than the United Kingdom. So, will the Minister recognise that, in addition to enjoying the support and appreciation of these brave men and women this House offers, the whole of the ECOWAS region, anglophone and francophone, welcomes their deployment? Will the Minister also take the opportunity of the review of ODA and the newly created FCDO to strengthen our military diplomacy in our missions in Africa as part of our development offer?

Baroness Goldie (Con): I thank the noble Lord for alluding to an important point. He is right; I outlined earlier the principal objectives identified by the Foreign Secretary for ODA. In respect of our military activity, it is important we align these two so that there is a complementary effect. He is correct that these are not problems that one solution will address; there has to be a multifaceted approach.

Lord Campbell of Pittenweem (LD): My Lords, as we have heard, this is a most dangerous peacekeeping mission, which has seen 220 fatalities already, together with many injuries. I welcome the range of vehicles to be provided as part of force protection, but that will not be the only element of force protection required. Is the Minister in a position to give us more detail on that matter?

Returning to the matter raised by the noble and gallant Lord, Lord Craig, the rules of engagement are extremely important in a theatre of the kind we are discussing. Will the forces there deployed be acting under the rules of engagement of the United Kingdom or the United Nations?

Baroness Goldie (Con): My understanding is that the direct line of command will be to the overall commander, Lieutenant-General Gyllensporre. But, obviously, our deployment unit has a commanding officer as well. As for specific rules of engagement, these would not normally be disclosed, but I seek to reassure the noble Lord that there is clarity as to why our deployment is there, what it is there to do and how it is intended it should do that.

Lord Lancaster of Kimbolton (Con): I declare my interest as a member of the Army Reserve. I would like to explore the Government's attitude to risk. After years of campaigning in Iraq and Afghanistan, risk was mitigated through a sophisticated use of ISTAR, enhanced medical capabilities and air cover operations to name but a few. But these mitigations are unlikely to be as sophisticated or mature in Mali. Are the Government prepared to take more risk, as many in the military would like them to do, or are we going to have to limit the scale of our operations in Mali, even if, ultimately, that means we will limit the impact the UK can have?

Baroness Goldie (Con): We take assessment of risk extremely seriously and we will keep mitigation and management of risk under continuous review. On the specific issue of medevac capability, as in all United Nations missions, United Nations member states are relied on to provide the nations' capabilities, including helicopters and aeromedical evacuation teams for the benefit of all United Nations troops on MINUSMA. The facility is there. It is the collective responsibility of the United Nations to provide that. We constantly assess risk and keep mitigation and management of risk under review.

Viscount Waverley (CB) [V]: My Lords, common interest with France, a close ally, is welcome co-operation. The Sahel belt has long been a hotbed of Islamists, separatists and appalling banditry, with recent unrest in Niger and Katsina state in Nigeria, in addition to that in Mali and beyond. The Minister stated that instability could spread but suggested that the United Kingdom's involvement would be for a limited period. However, will the Government urgently join in planning and implementing a Sahel-wide strategy—[*inaudible*]—the regional mix of the US and Morocco, having engaged in a major arms deal, together with the just-announced recognition, has the potential to further regional alienation, by some, of Western Sahara—by the US and Morocco.

Baroness Goldie (Con): I slightly missed a bit in the middle of the noble Viscount's question, but I will try to deal with the overall concept of his question as to what we are doing in the Sahel. Our objectives are to contribute to improving the situation. We recognise a number of different actors already present in the Sahel. We aim to work with them to better deliver for the people of the region. The UK's deployment to MINUSMA is a vital part of our work in the Sahel to build stability, bolster conflict resolution, improve the humanitarian response and strengthen partnerships between the international community and regional Governments.

Lord Hain (Lab) [V]: My Lords, I agree with the Minister that this is an important UN mission that we must support. I associate myself with my noble friend Lord Touhig's remarks. The Sahel region is beset by an increasingly dangerous and violent Islamist insurgency, and in the east of Mali militants repeatedly attack French, European and local armed forces, including 50 killed in 2017 in a suicide attack on a military base.

[Lord Hain]
The Minister said that lessons had been learned from previous missions. How certain can she be that Mali will be very different from, for example, Helmand? I clearly recall similar assurances to those she has given being given to us in the Cabinet in 2006 on a straightforward mission, yet 454 soldiers, including British ones, were subsequently killed in combat operations against the Taliban.

Baroness Goldie (Con): That was indeed a very sad outcome. It is one we remain mindful of, and that we cannot and will not forget. The answer to the noble Lord's question is probably best explained by returning to the role of the United Nations, because this is what we are part of. The United Kingdom believes in peacekeeping as a way to stabilise and contain conflict. Our contribution to MINUSMA, alongside our enduring commitment to the United Nations' peacekeeping operation in, for example, Cyprus, and the staff officers we have employed in other operations, is the UK playing its part in a multinational effort to contain the worst consequences of violent conflict and to help build confidence in the political processes.

As I said, we constantly assess and after 18 months we will review this mission. We will analyse what has been happening and assess our role as a contributor to the mission. The noble Lord is right to be alert to what we must always be on our guard against. We want to be very sure that our presence is positive and that the contribution we make makes a difference to providing a more positive future for Mali. That is something we will constantly keep under consideration.

Lord Marlesford (Con) [V]: My Lords, I echo the apprehension of the noble Lord, Lord Hain. We have sent only some 300 of our elite soldiers to fight against the Islamist terrorists in Mali. We must remember that it took more than three years and massive military support to subdue the Islamic State in Syria and Iraq when it sprang into action in April 2014. We must also remember that the French have been battling against the Islamists who seek to overthrow the secular Government in Mali since September 2013. Can we be sure that, if necessary, the British will add to their commitment and their force to see that this job is done at least in the case of Mali? Africa is now a big target of the Islamic State, which would put paid to the hopes of the African people.

Baroness Goldie (Con): The last part of my noble friend's question encapsulates why the United Nations is there and why we are proud to make to our contribution to that mission. Our force may be 300, but that is part of a force of thousands, reflected by the other contributors to the mission. My noble friend is quite correct: there is a challenge—we do not diminish that—but it is best addressed in partnership with like-minded nations working together. Acting under the umbrella of the United Nations is a constructive and positive way in which to do that.

Lord Alton of Liverpool (CB): My Lords, on March 12, in evidence to the inquiry on sub-Saharan Africa of the International Relations and Defence Select Committee, which has been referred to already, General Sir Richard Barrons said that the UK's role in MINUSMA, the UN peacekeeping mission in Mali, was

"not in support of a strategy of any kind other than 'We should do a bit more UN peacekeeping'".

When the noble Lord, Lord Ahmad, answered my Question on 17 June, he said that our strategic approach would

"help tackle the underlying causes of poverty and conflict in the region"

but he said nothing about the role of jihadists from both al-Qaeda and Isis, who have been referred to by a number of noble Lords. What has changed since General Barrons made his remarks in March about the lack of a strategy? Given the history of jihadism in Mali, including terrible attacks on women and the destruction of Sufi monuments in Timbuktu, will the Government be clear about who and what we are fighting in Mali and why, and reflect on the dangers of mission creep?

Baroness Goldie: I go back to what we are doing and why we are there. We are part of this United Nations mission. It is important to remember the umbrella character of that mission. I fully agree with the noble Lord that mission creep would be undesirable, but there is a minimal risk of that happening for the reasons which I stated earlier. This is a mission for our UK deployment of finite time—it is three years; there will be a review after 18 months. It is a fixed number of personnel; it is a peacekeeping mission—our role is one of reconnaissance. There are therefore clear boundaries round what we are doing there. That is not to say that our presence is ineffectual or not capable of achieving anything substantive—I would totally disagree with that as an assessment. As part of this broader commitment organised by the United Nations, we are contributing to addressing the issues which have made the country so challenging and dangerous. The noble Lord is quite correct. I do not seek in any way to diminish the threat, the dangers or the difficulties—they are real and they are there—but I am proud to say that, in so far as the United Kingdom is concerned, we have highly-trained, very capable and professional soldiers. I am confident that they will make a singular and important contribution to the broader objectives of the mission.

House adjourned at 9.25 pm.