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PARLIAMENTARY DEBATES  
(HANSARD)

# HOUSE OF LORDS

## OFFICIAL REPORT

*ORDER OF BUSINESS*

Questions	
Economy: Remittances .....	2297
Rail Fares: Flexi-season Tickets .....	2301
House of Lords: Proceedings .....	2304
Biodiversity: Dasgupta Review .....	2307
Protocol on Ireland/Northern Ireland: Border Controls	
<i>Private Notice Question</i> .....	2310
Procedure and Privileges Committee	
<i>Membership Motion</i> .....	2315
Covid-19 Update	
<i>Statement</i> .....	2315
National Security and Investment Bill	
<i>Second Reading</i> .....	2332
Health Measures at UK Borders	
<i>Statement</i> .....	2393
<hr/>	
Grand Committee	
Non-Domestic Rating (Lists) (No. 2) Bill	
<i>Committee</i> .....	GC 365

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

<b>Abbreviation</b>	<b>Party/Group</b>
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

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# House of Lords

Thursday 4 February 2021

The House met in a hybrid proceeding.

Noon

Prayers—read by the Lord Bishop of Salisbury.

## Arrangement of Business

Announcement

12.07 pm

**The Deputy Speaker (Lord Faulkner of Worcester) (Lab):** My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber and others are participating remotely, but all Members will be treated equally. I ask all Members to respect social distancing. If the capacity of the House is exceeded, I will immediately adjourn the House.

Oral Questions will now commence. Please can those asking supplementary questions keep them to no longer than 30 seconds and confined to two points? I ask that Ministers' answers are also brief.

## Economy: Remittances

Question

12.07 pm

Asked by **Lord Alton of Liverpool**

To ask Her Majesty's Government what assessment they have made of the impact of remittances (1) on the United Kingdom economy, and (2) from the United Kingdom to the economies of developing countries.

**The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con):** My Lords, remittances are a significant source of funds for developing economies and have a positive impact on the UK economy. Money service businesses trade around £1.8 trillion daily through the UK. The World Bank estimates that in 2019 UK remittances totalled around £23 billion, £8 billion more than the UK overseas assistance budget. Remittance payments typically flow to households and increase income and resilience to economic shocks. Let me assure noble Lords that the UK is committed to working with the G7 and G20 to ensure that remittances are sent as cheaply, accessibly and securely as possible.

**Lord Alton of Liverpool (CB) [V]:** My Lords, with the total value of remittances to low and middle-income African countries three times higher than official development aid—which is now being cut—and with a dramatic Covid-related reduction in remittances in 2020, will the Minister look at the gains that could be made by remittance matching and cutting the 6.5% cost in fees when sending remittances from the UK to meet the UN goal of 3%? Will he also say what the Government are doing to follow up the recommendations in chapter 5 of the International Relations and Defence Committee's report on sub-Saharan Africa relating to remittances?

**Lord Ahmad of Wimbledon (Con):** On the noble Lord's first point, I can give him that assurance. The cost of transactions for remittances in Q4 2020 stood at 6.48%, which is beyond the SDG target. We will use our presidency of the G7 and G20 in pursuit of that aim. He is right to raise the report, which I have looked at carefully, and the work that needs to be done in that respect. As we said in our response to the International Relations and Defence Committee's report in September, we are committed to supporting innovative mechanisms that can leverage sustainable sources of finance.

**The Deputy Speaker (Lord Faulkner of Worcester) (Lab):** The noble Baroness, Lady Stuart of Edgbaston, does not appear to be on the call, so I call the noble Baroness, Lady Anelay of St Johns.

**Baroness Anelay of St Johns (Con) [V]:** My Lords, I welcome what the Minister has said so far. What opportunities have the Government identified specifically to support greater access to local secure remittances as a consequence of their work with the World Bank and the UK's Financial Sector Deepening Africa programme?

**Lord Ahmad of Wimbledon (Con):** My Lords, we are committed to working with the World Bank. It is noticeable that the World Bank has talked about the challenge of the decline in remittances. Across the key countries, including in sub-Saharan Africa, we are working to ensure prioritisation of access and looking at more innovative schemes. Last year, as my noble friend will recall, we launched an initiative with Switzerland in this respect.

**Viscount Waverley (CB):** My Lords, I offer the Minister an innovative idea, to which he referred. Given the pressure on overseas development budgets and programmes to create growth and employment, might it be time to consider that the global tax system should be turned around and restructured, whereby taxes are not paid to a country where a company is domiciled but remitted to, or shared with, the origin country in which a purchase was placed or a service delivered? Would the Minister conceivably advance this thought to the powers that be as a possible G7 discussion over a Cornish party?

**Lord Ahmad of Wimbledon (Con):** I assure the noble Lord that I will do just that.

**Baroness Whitaker (Lab) [V]:** While the whole amount of remittances is clearly more than UK aid to developing countries, it is not targeted at national strategic objectives being mainly used for housing and business development. Have the Government been able to make any analysis of the proportion of remittances that went to those sectors, or education?

**Lord Ahmad of Wimbledon (Con):** My Lords, the noble Baroness raises an important point. Our priority for remittances has been key countries across the world, in Africa and Asia in particular, and key sectors focused on the most vulnerable. I will write to the noble Baroness with a specific breakdown if that is available.

**Baroness Sheehan (LD) [V]:** My Lords, the sustainable development goal target is to reduce the transaction costs of migrant remittances to less than 3%. However, the most recent data from *Our World in Data* tells us that countries in sub-Saharan Africa were, at 9%, paying the highest remittance costs of any region as a proportion of the amount remitted. This is morally repugnant. As well as raising the subject at the G7, will the Minister raise it with his colleagues at the Treasury?

**Lord Ahmad of Wimbledon (Con):** My Lords, let me assure the noble Baroness that, in preparation for the G7, we are working across government to ensure that the targets, including the SDG target of 3%, can be met—and we will work to ensure that other countries also commit themselves to that.

**Baroness Sugg (Con) [V]:** My Lords, acknowledging the significance of remittances is particularly important at the moment, with the global impacts of Covid-19 and as our own development assistance to low-income countries is being cut so substantially, so I welcome my noble friend's reassurance that this subject will be discussed at the G7. There are many stakeholders who need to be involved in improving the ease and cost of remittances, and some years ago the Government established the Action Group on Cross Border Remittances, chaired by Sir Brian Pomeroy, which brought those groups together. Can my noble friend tell me whether that group continues its important work and, if not, what it has been replaced by?

**Lord Ahmad of Wimbledon (Con):** My Lords, I pay tribute to my noble friend's work in this area. The action group last met in person in 2019. Its current membership and format are under review, and I will, of course, share with her the outcomes of those discussions.

**Lord Collins of Highbury (Lab):** My Lords, this issue is, of course, one of the untold benefits of migration. As the noble Lord, Lord Alton, said, it accounts for three times the amount of FDI and ODA flows. Last year, the UN Conference on Trade and Development forecast that ODA and FDI flows will have contracted by 40%. To pick up the point made by my noble friend, what steps is the FCDO taking to ensure that funds that are remitted are turned into productive investment and help pave the way to economic prosperity for all?

**Lord Ahmad of Wimbledon (Con):** My Lords, I share the noble Lord's opinion. Indeed, in my own family, when my father first arrived in the early 1950s, remittances were an important part of supporting his family in the sub-continent. In answer to the noble Lord's specific point, remittances have been shown to be more resilient than, for example, capital flows—but they also tend to be countercyclical. As for the specifics of where they are going, they are aimed at the most vulnerable; as I said, there is further information on the sectors available, and I will share that with him.

**Lord Hastings of Scarisbrick (CB):** My Lords, the Minister has admitted how vital remittances are to individual communities and families. Yet most of that

money is used on basic purchasing and family needs. Will the Government look at exploring the possibility with the banks both here and there—wherever “there” is—a holding pools investment strategy to make money from the money while it is being transferred, and pre-transfer, and put that into jobs, trade and infrastructure? Will the Minister meet me to discuss this?

**Lord Ahmad of Wimbledon (Con):** Of course, I look forward to meeting the noble Lord on that last point. We are looking at particular processes, especially in countries such as Ghana, Nigeria and Somalia, and I am sure that will form the basis of our discussions.

**Lord Risby (Con) [V]:** My Lords, does my noble friend agree, particularly in current circumstances, that it would be desirable to have an international drive to scale up digital solutions, complete with the integration of fintech, if we are to be more innovative in facilitating less costly cross-border transactions?

**Lord Ahmad of Wimbledon (Con):** My Lords, I agree with my noble friend. The UK supports the Financial Stability Board's work to enhance cross-border payments, and we will work through the ambitions set at the last G20. I have alluded to the work of the G7; as I said, the UK encourages innovative fintech solutions connecting cross-border mobile wallets, because it is much easier and cheaper to send remittances in that way. We support that objective.

**Lord Oates (LD):** My Lords, the Minister will be aware of the figures showing a very significant reduction in the level of remittances, and the wider impacts of coronavirus on the economies of lower-income countries. In light of those figures, can he conceive of a worse possible time for the Conservative Party to decide to betray its manifesto commitment on 0.7%, when the poorest people in the world are in the greatest need?

**Lord Ahmad of Wimbledon (Con):** My Lords, on the noble Lord's last point, we have had various discussions on the announcement made on the reduction in ODA. As I have said before from the Dispatch Box, we will look to return at the earliest opportunity to 0.7%—but the fact is that we will still be spending one of the highest sums of any G7 country, amounting to £10 billion, on our ODA commitments. Equally, on the subject that we are discussing today—remittances—we are working, and indeed leading the world, in innovative solutions to reduce the cost of transactions and increase the number of remittances. As I said in my original Answer, remittances far outweigh ODA in developing parts of the world. Our eight countries of priority reflect the very objectives of our ODA spend, which is helping the most vulnerable around the world.

**The Deputy Speaker (Lord Faulkner of Worcester) (Lab):** My Lords, all supplementary questions have been asked, and we now move to the next Question.

## Rail Fares: Flexi-season Tickets

### Question

12.20 pm

Asked by **Lord Berkeley**

To ask Her Majesty's Government what assessment they have made of the report by Transport Focus *Fairer fares: the future of rail commuting*, published on 18 August 2020, in particular the recommendation to trial flexi-season tickets and other marketing initiatives to encourage rail travel as Covid-19 restrictions are lifted; and what discussions they have had with railway operators about conducting such trials.

**The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con):** My Lords, the Government welcome the Transport Focus report on the future of rail commuting post Covid. We are working closely with the industry on a range of initiatives to benefit the passenger, including looking at solutions that offer better value and convenience for those who commute flexibly.

**Lord Berkeley (Lab) [V]:** My Lords, I am grateful to the Minister for that response, but to press her a little further, has the Department for Transport actually received proposals from the train operating companies to promote flexible fares to encourage passengers, including less frequent commuters, to return? Will the department allow any of the train operators which want to implement trials of such options to do so?

**Baroness Vere of Norbiton (Con):** The Government proactively asked the train operating companies to come up with ideas for fares and other innovative passenger-led solutions as we come out of Covid. At the moment, we are building the evidence base to support the proposals—for example, on flexible season tickets—and assessing the potential commercial impact of these new products. How they are to be implemented will be published in due course.

**Lord Davies of Brixton (Lab) [V]:** My Lords, does the Minister agree that even before the pandemic, we were seeing big changes in working patterns? A growing proportion of the working population no longer expect to go to the workplace five days a week. Does she accept that the Government need to show more leadership here so that we can move on from ticketing systems that reflect the work patterns of the 1950s?

**Baroness Vere of Norbiton (Con):** My Lords, I believe the Government are showing leadership on this issue, which is precisely why we proactively approached the train operating companies and made it absolutely clear to them that, going forward, we are going to see a very different type of train system—one that is really focused on the passenger and that provides punctual and reliable train services, but at a price that is fair to the taxpayer and the passenger.

**Baroness Ritchie of Downpatrick (Non-Aff) [V]:** My Lords, the Minister referred to the Government looking at a number of solutions. Will she indicate whether those solutions include enhanced ventilation systems

and particle filtration—and, ideally, air disinfection protection measures—as part of the means to encourage people to use the trains in a safe manner?

**Baroness Vere of Norbiton (Con):** The noble Baroness is quite right; the one thing we are going to have to do to get people back on to the railways—indeed, the public transport system as a whole—is to improve passenger confidence in the system. One way to do that is to be at the forefront of being able to provide the most up-to-date air filtration systems and secure the best enhanced cleaning contracts.

**Lord Moylan (Con):** My Lords, noble Lords may have wonderful, imaginative ideas for playing around with fares, and there may indeed be a commercial case for flexible season tickets, but does my noble friend agree that the future of the railways is best secured if they maximise their own revenues and that the fundamental purpose of commuter fares and season tickets must therefore always be, as with airlines, to increase yields to the railways, thus saving expense for the taxpayer?

**Baroness Vere of Norbiton (Con):** I somewhat agree with my noble friend in that, if this were being done in purely commercial terms, that would be the case, and we certainly want to minimise the amount of subsidy from the taxpayer where appropriate. However, the state might also want to intervene for other reasons and use pricing levers; for example, to encourage modal shift and get people out of their cars and on to the rail, particularly for certain types of journeys, and that might include commuting.

**Baroness Randerson (LD) [V]:** My Lords, the roads are congested and the trains are empty. Does the Minister accept that, as this report shows, passengers will return to the railways only if there is reform and modernisation of ticketing that offers better value for money? As the Government now control the railways, does she accept that the Government need a greater sense of urgency in this modernisation?

**Baroness Vere of Norbiton (Con):** I am afraid the Government do not accept that. We are undertaking rail reform. As the noble Baroness will know, now is probably not the right time to do it, in the midst of a pandemic, but as the course of the pandemic becomes much clearer, we will continue to work, as we have done for quite a while now, with Keith Williams on his root and branch review. We remain in close contact with him and he fully supports the ERMAAs we have put in recently. The noble Baroness also said that the roads are congested. I do not know whether she has been outside recently, but they are not.

**Lord Young of Cookham (Con):** My Lords, any trial flexi-season ticket system needs government approval before it can start. Can my noble friend say whether she is looking at a national scheme with common rules, to avoid complexity, or whether each individual franchise will develop its own scheme? Will she ensure that any new scheme will be contactless, in order to keep down costs and save time?

**Baroness Vere of Norbiton (Con):** My noble friend is trying to push me a little further every time. I cannot say whether it will be a national scheme or whether we will have competitive schemes from different rail operators. Certainly, a national scheme would be simpler for the passenger, so each option will have advantages and disadvantages. We are looking at those at this time. Smart ticketing, which I think is the digital solution that my noble friend refers to, is at the heart of what we want to achieve. We really need to get to a stage where we do not have paper tickets; we must have smart ticketing systems that can cope with season tickets or, indeed, any ticket at all.

**Lord Berkeley of Knighton (CB) [V]:** My Lords, in this part of mid-Wales, just about the only way for many people to get to Birmingham, Manchester or London is to take the beautiful Heart of Wales line, which then goes up to Manchester. The problem, as I see it, quite apart from the fact that you sometimes have to flag down the train or tell the driver when you want to get off—not an intercity problem—is that the fares and timetable are not always co-ordinated to allow an affordable way of commuting to these cities. Will the Government look at this when they are talking to the companies? Indeed, will they talk to their own people about how we could make this work better?

**Baroness Vere of Norbiton (Con):** Train services and fares are, of course, devolved in Wales, but I recognise the noble Lord's point about passengers who want to go from Wales to England for work, for example. I encourage him to raise this issue with Sir Peter Hendy in his union connectivity review, because it is really important for people who need to travel for employment reasons that the means of travel are there in terms of the services, but also that the fares fit as well.

**Lord Rosser (Lab) [V]:** First, how will the pending increase in fares encourage people back on to our trains, bearing in mind that much passenger business is optional leisure travel, and commuter traffic will become more price-sensitive as home working for at least part of the week is likely to become a permanent option for many? Secondly, if cheaper fare promotions are going to be used to encourage people back on to our trains, who, under the present contractual arrangements between the Government and the train operating companies, will have the final say on what those cheap fare promotions will be: the Government or the train operating companies?

**Baroness Vere of Norbiton (Con):** The recent increase in fares was 2.6%, 1% below inflation. This is the lowest increase for four years. In addition, the Government delayed the increase by two months to 1 March. But it is case that taxpayers have been spectacularly generous to the railways in terms of support over the Covid period. We must ensure that there is a good balance between the taxpayer and the passenger, so we are content with a small increase in regulated rail fares. On the potential schemes and other measures that may be put in place, the Government will be working very closely with the train operating companies. All ideas are welcome, and when it is time to get people back on to public transport, we will put those in place.

**Lord Greaves (LD) [V]:** My Lords, the recent pulling of the funding by the Government for Transport for the North's scheme for smart ticketing across the north of England seems extraordinary in view of what the Minister has already said. Is this not a blow for the railway across the north of England and an indication that "levelling up" is no more than a slogan and has no substance? Will the Minister go away and get this reversed?

**Baroness Vere of Norbiton (Con):** Not at all: TfN was allocated £150 million at the 2015 spending review for this integrated and smart travel programme. It was always the case that that funding was going to expire at the end of the current financial year. To date, TfN has managed to spend £24 million, and that is a good start, but we are now considering how best to deliver more effectively—and perhaps more quickly—a rollout of smart ticketing to improve passenger services across the north.

**The Deputy Speaker (Lord Faulkner of Worcester) (Lab):** My Lords, the time allowed for this Question has elapsed and I apologise to the two noble Lords who were not able to be called.

## House of Lords: Proceedings

### Question

12.30 pm

Asked by **Lord Farmer**

To ask the Senior Deputy Speaker what plans there are for proceedings in the House of Lords to revert to physical only proceedings once the restrictions in place to address the Covid-19 pandemic are lifted.

**The Senior Deputy Speaker (Lord McFall of Alcluith) [V]:** My Lords, at the moment, it is not yet clear when Covid-related restrictions will be lifted, so the point at which we will be able to remove the restrictions on the number of those who can be in the Chamber at once is not yet known. It follows, therefore, that we assume that we will need to continue to work in hybrid proceedings for at least the next few months.

**Lord Farmer (Con):** My Lords, we are all indebted to the noble Lord, including for his diligent, well-executed review of committees. Iron sharpens iron far more effectively when we share physical space. This is vital to proper scrutiny of government and to the stimulation and spontaneity of debate. Clearly, there is a very high interest in this Question. What discussions has the noble Lord had with the Government Chief Whip and usual channels about a Chamber debate on the future of hybrid proceedings?

**The Senior Deputy Speaker (Lord McFall of Alcluith) [V]:** I thank the noble Lord for his Question and comments. As I think his Question acknowledges, I am not in a position to offer time on the Floor of the House, but I know that the Chief Whip will have heard his request. He is correct that we, as a House, need to find a way to talk through what has worked and what has not and any features of hybrid working we may want to retain beyond the current pandemic. I believe that the House would benefit from the experiences and ideas of the

noble Lord and others across the House. For my part, I will reflect on how Members' views might best be sought.

**Baroness Smith of Basildon (Lab) [V]:** My Lords, none of us enjoy working remotely. The noble Lord, Lord Farmer, is right that it does not allow the House to work at its best, although thanks to our remarkable digital teams and staff across the House we have been able to do so much more effectively than some thought was possible. However, we long for a return to normality. As the vaccine is rolled out, those who receive it have protection but can still transmit the virus. Restrictions therefore remain vital to protect colleagues and our staff who have not yet been vaccinated. Our return to normality cannot be ad hoc; it has to be properly planned. Will the Senior Deputy Speaker confirm that, working with Public Health England, we should now start that planning process in the interests of the work of the House and all those who work here?

**The Senior Deputy Speaker (Lord McFall of Alcluith) [V]:** I thank the noble Baroness for her question, the kernel of which is: will we instigate a route back to normal? I anticipate deliberation of that at the commission and, thereafter, as appropriate, at the committee dealing with procedural aspects. As she says, we have to be informed by the best advice of Public Health England alongside the representations and views of Members of the House, while taking into consideration staff views and interests. The noble Baroness makes an excellent point about a route back to normal and I am sure that we will take that up at the commission as a first step.

**The Deputy Speaker (Lord Faulkner of Worcester) (Lab):** The noble Baroness, Lady Bowles of Berkhamsted, has withdrawn. I call the noble Lord, Lord Hayward.

**Lord Hayward (Con):** My Lords, I first express disappointment at those Members of the House who continue to move around the building without wearing reasonably requested masks. At this stage, I do not want to change social distancing in the Chamber. However, by 15 February some 50% of all Members of this House will have had their first jab. It is therefore reasonable that the House should give serious consideration to, post-recess, our eating and meeting on a reasonably socially distanced basis at tables alongside each other, and not separated at a distance as now.

**The Senior Deputy Speaker (Lord McFall of Alcluith) [V]:** I thank the noble Lord for his question. As I mentioned in my answer to the noble Baroness, Lady Smith, when taking up this issue in the commission, points such as those should be taken into consideration. The current public health advice is that those who are vaccinated should continue to follow all existing social distancing measures. This is because, although many Members will have received one dose of the vaccine, most staff will not and we do not yet have certainty on whether the vaccines prevent transmission. Therefore, I urge all responsible Members to follow the measures in place on the Estate in order to protect other Members and the staff who support the House. From my point of view, if I see someone with a

mask, I take that as a visible act of generosity and solidarity with others. After all, no one is safe until all are safe.

**Baroness Hayman (CB) [V]:** My Lords, I support the idea of a plan to see how quickly and safely we can return to normal working in the House, recognising that we have lost a great deal in terms of the quality if not the quantity of the work we have done over the past year. May I suggest to the Senior Deputy Speaker that, as well as a debate on the Floor of the House, it would be good if a group looked in detail at and evaluated the changes to our processes and procedures, taking into account evidence from people throughout your Lordships' House, which would help to inform the work of the commission and the Procedure Committee when we do return?

**The Senior Deputy Speaker (Lord McFall of Alcluith) [V]:** The hybrid House has worked very well and we have been commended for that, within and outwith the House, including by the media. It is extremely important to evaluate what has happened, because the pace and significance of the change in working practices has been unprecedented. We have been at the forefront of adapting, with not much time for reflection, so that at all points we have been able to continue to do our important job. As the noble Baroness says, there has to come a time for reflection when we can step back and think about what we want to keep and what we do not. Such matters will fall to be considered by the commission and the Procedure Committee in the first instance. Following the suggestion from the noble Baroness, Lady Smith, we hope to start that process in the commission and welcome noble Lords' views as we develop them.

**Lord Winston (Lab) [V]:** While congratulating the noble Lord, Lord McFall, on his great care in making sure that we do not put at risk the health of Members of the House of Lords and all our wonderful staff, I do not agree that we have a great deal of improvements that we could use. In many ways, for example, Question Time is now a disaster. We no longer debate issues and we cannot come to the Speaker very easily with supplementaries. People are reading their speeches and are unable to debate any more. If we are to be a powerful House with influence, we need to preserve that. I urge the Senior Deputy Speaker to consider how we might return to proper working as soon as possible.

**The Senior Deputy Speaker (Lord McFall of Alcluith) [V]:** In terms of what we have done in the hybrid House, I would point to the committees, which have been an excellent and innovative success. In other areas, the debates are stilted, as the noble Lord points out. The Procedure Committee has sought to improve the spontaneity of proceedings—for example, by introducing a way for noble Lords to email the clerk to ask to speak after the Minister to ask questions of elucidation on some business. We are actively considering whether there is more we can do. We also know that ensuring virtual participation can contribute to live proceedings. It takes more stage management than in the past, without which our proceedings might be confusing and chaotic, given the number of noble Lords taking part. We agree with the noble Lord's

[THE SENIOR DEPUTY SPEAKER]

main point that proceedings are stilted and there is no substitute for human engagement and getting back to normal. The Procedure Committee is alive to that.

**Lord Jones of Cheltenham (LD) [V]:** Will the Senior Deputy Speaker reflect on how the hybrid House enables noble Lords to contribute remotely to proceedings when they might otherwise be prevented from doing so through disability, caring responsibilities or duties elsewhere?

**The Senior Deputy Speaker (Lord McFall of Alcluith) [V]:** That is a very valid question, for which I thank the noble Lord. As I mentioned, the Procedure Committee will be meeting soon and I will bring his and other Members' comments to its attention.

**The Deputy Speaker (Lord Faulkner of Worcester) (Lab):** My Lords, the time allowed for this Question has elapsed, and I apologise to the noble Lords it was not possible to call. We now come to the fourth Oral Question.

## Biodiversity: Dasgupta Review Question

12.40 pm

Asked by **Baroness Boycott**

To ask Her Majesty's Government what assessment they have made of the report *The Economics of Biodiversity: The Dasgupta Review*, published on 2 February.

**Baroness Penn (Con):** My Lords, at the start of an important year for global action to tackle biodiversity loss and climate change, the Government thank Professor Sir Partha Dasgupta for his independent review and welcome its publication. The review is a strong example of UK thought leadership on an important environmental issue with clear but often overlooked economic consequences. The Government will examine the review's findings and respond formally in due course.

**The Deputy Speaker (Lord Russell of Liverpool) (CB):** I call the noble Baroness, Lady Altmann—I beg your pardon. I call the noble Baroness, Lady Boycott.

**Baroness Boycott (CB) [V]:** My Lords, I thank the Minister very much for her reply. I am very glad to hear that the Government welcome this extremely important review, which looks at the loss of biodiversity through an economic lens. But if we are indeed to act on this report, have the Government assessed what mechanisms can be put in place to ensure that the principles of the report are adhered to? For example, will the Government include these measures in departmental plans, government spending reviews and, indeed, all future free trade agreements?

**Baroness Penn (Con):** My Lords, while the Government have only just received the report, I reassure the noble Baroness that we are already taking action to include some of these measures in our decisions. For example, the 2020 Green Book and its supplementary guidance on valuing natural capital and climate effects continues to take significant and world-leading steps forward in appraising environmental policies.

**The Deputy Speaker (Lord Russell of Liverpool) (CB):** I apologise to the noble Baroness, Lady Boycott, for getting the order wrong. I now call the noble Baroness, Lady Altmann.

**Baroness Altmann (Con):** My Lords, given that precious ecosystems are being existentially endangered and that remedying the problems identified in this brilliant report requires international co-operation, can my noble friend explain how the recommendations will be incorporated into the planning for COP 26 and our economic planning?

**Baroness Penn (Con):** My Lords, the Prime Minister has agreed five policy themes for COP 26, and one of those is nature. In our nature campaign, we are committed to protecting and restoring the natural habitats and ecosystems on which climate, air, water and our way of life depend. This year we also have COP 15, for biological diversity, in China, which will be another important opportunity for global action on biodiversity.

**Lord Krebs (CB) [V]:** My Lords, the Public Accounts Committee's recent excoriating report said with regard to the Government's record on the environment that "progress is disappointing" and that the pace has been "painfully slow". Dasgupta also calls for transformative change, and he suggests that financial actors and institutions could help to drive this change—for instance, through transparent measurement and disclosure that could influence investors. Does the Minister agree, and, if so, does she think that the markets alone will achieve the necessary radical change or that government intervention is required?

**Baroness Penn (Con):** My Lords, I disagree with the PAC conclusions, but I agree about the importance of the financial sector in making progress on this issue. In December, the Chancellor announced the UK's intention to make climate-related financial disclosures mandatory across our whole economy by 2025 and to have a significant portion of mandatory requirements in place by 2023—becoming the first country in the world to make these disclosures mandatory. This will be an important step, but not the only step; we will also need government action on this issue.

**Lord Brooke of Alverthorpe (Lab) [V]:** My Lords, the report identifies the tripling of the world population, from 2.5 billion in 1950 to 7.6 billion in 2019, as a major contributor to unsustainability. As well as the need to look at family planning policies, Professor Dasgupta asks what else the review should consider in developing options for change. Is not voluntary euthanasia an option that could be considered? Would the Government ask him to look at that? That would reduce the numbers in the world.

**Baroness Penn (Con):** My Lords, that question has taken me into uncharted territory on the topic of biodiversity. We will consider all the findings of the review very carefully and come back in due course.

**Baroness Parminter (LD) [V]:** My Lords, Professor Dasgupta outlined that to protect 30% of the world's land and oceans by 2030 would require \$140 billion annually. Will the Government publish their assessment



of the investment required to meet the PM's welcome commitment to protect 30% here in the UK and assign that amount to the next spending review?

**Baroness Penn (Con):** My Lords, as part of the spending review process, all departments are required to look at their bids in terms of their commitment to climate change and our targets in that respect. We have made a number of commitments on UK progress towards protecting 30% of our land and oceans by 2030, including additional funding at the 2020 spending review.

**Lord Clark of Windermere (Lab) [V]:** My Lords, Sir Partha Dasgupta has produced a truly landmark document which will fundamentally change life in many societies in this world of climate change. The Agriculture Act 2020 provides us with one means of progressing with some of the recommendations, but do the Government intend to press ahead and integrate other findings of the report in the Environment Bill, which they intend to introduce next year?

**Baroness Penn (Con):** My Lords, the noble Lord is correct in his assessment of the importance of the Dasgupta review. I reassure him that some of the measures in the review touch on areas where the Government are already taking action. We will consider the findings of the review carefully. The Environment Bill already contains world-leading proposals, including for mandatory biodiversity net gain for development, and I believe we will be taking it forward this year.

**Lord Lucas (Con) [V]:** My Lords, if we are to value nature in all that we do, then nature needs to be part of our education system. Will my noble friend therefore ask her friends in numbers 11 and 10 Downing Street whether they will encourage the Department for Education to give a fair wind to the very well worked out proposal from OCR for a natural history GCSE, and will she let me know what they say in response?

**Baroness Penn (Con):** My Lords, I will be very happy to undertake to make those representations and will let the noble Lord know the response.

**Baroness Meacher (CB) [V]:** My Lords, the oceans are surely the greatest asset—economically, as well as in many other ways—both for the planet and for humanity. Yet we have already depleted this asset by enabling 5.25 trillion macro and micro pieces of plastic to find their way into these great waters. What are the Government's latest plans to prevent plastics reaching the oceans? Do they have a date when plastic will no longer enter the oceans from this country? If so, what is that date?

**Baroness Penn (Con):** My Lords, the Government are taking world-leading action on preventing the use of single-use plastics and their presence in our ecosystem. That includes banning certain single-use plastics and microbeads. I will come back to the noble Baroness on her request for a date on the progress of those issues.

**Baroness Blackstone (Ind Lab):** My Lords, what plans do the Government have to include the financing of nature-based solutions as one of the objectives of

the national infrastructure bank to make sure that finance flows to projects that will enhance our natural assets and encourage nature's recovery?

**Baroness Penn (Con):** My Lords, the Government set out our green finance strategy in 2019. It contained a host of measures that we are going to take on green finance, including climate-related financial disclosure and green-proofing our ODA spend. I will come back to the noble Baroness on how that relates to the national infrastructure bank.

**Baroness Miller of Chilthorne Domer (LD) [V]:** My Lords, this excellent report makes the point that conservation is much more important to biodiversity than restoring land that has been degraded. In the light of that, what will the Government do about the destruction of ancient woodlands along the path of HS2? Will the Minister also comment on whether now, in the face of this report, they will restore the ODA spending for those countries that cannot afford conservation, particularly in sub-Saharan Africa?

**Baroness Penn (Con):** My Lords, our commitment on international funding for climate-related projects and specifically for nature-based solutions is unprecedented. I believe that we have committed £15 billion over the next spending period to help those countries in the developing world ensure that they have nature-based solutions to climate change.

**The Deputy Speaker (Lord Russell of Liverpool) (CB):** My Lords, the time allowed for this Question has elapsed. I apologise to the noble Lord, Lord Randall of Uxbridge, for being unable to call him.

12.51 pm

*Sitting suspended.*

## Arrangement of Business

### *Announcement*

1 pm

**The Deputy Speaker (Lord Russell of Liverpool):** My Lords, the Hybrid Sitting of the House will now resume. I ask Members to respect social distancing.

## Protocol on Ireland/Northern Ireland: Border Controls

### *Private Notice Question*

1 pm

*Asked by Lord Caine*

To ask Her Majesty's Government what assessment they have made of the impact on the operation of the Protocol on Ireland/Northern Ireland of (1) the withdrawal of local and European Union officials from border control posts in Northern Ireland, and (2) the suspension of inspections on goods entering Northern Ireland at the Ports of Belfast and Larne.

**The Minister of State, Cabinet Office (Lord True):** My Lords, I know that the whole House will join me in strongly condemning all threats and intimidation. These will never guide the actions of Her Majesty's Government. But there has been strong concern right across the

[LORD TRUE]  
community at the EU's actions on Friday. Urgent action is now needed to restore confidence and address outstanding issues with the protocol, which we will take forward urgently with the EU next week.

**Lord Caine (Con):** My Lords, while all intimidation by members of paramilitary groups must be totally condemned, does my noble friend agree that the strength of feeling in Northern Ireland is the entirely predictable consequence of the one-sided approach adopted by the European Commission, which has only ever seen these issues from an Irish nationalist perspective? Indeed, I warned Monsieur Barnier directly of this when I saw him in June 2018. Does my noble friend agree that the time has come for the Commission to show flexibility, pragmatism and sensitivity over the implementation of the protocol, respecting all parts of the Belfast agreement and the constitutional and economic integrity of our United Kingdom? If it does not, then surely the Government must consider more robust measures.

**Lord True (Con):** My Lords, I underline what I said in my first Answer. It is clearly hugely disappointing and surprising to many that the EU proposed to take such a significant step without any notification—indeed, without even notifying the Irish Government. I profoundly agree with my noble friend that it now behoves us all to take appropriate and lasting action to address the questions of concern.

**Lord Whitty (Lab) [V]:** My Lords, Michael Gove has said that the problems with the protocol are not just teething problems. What did he mean by that? Does he now recognise that the protocol was a flawed document in many ways but that repudiation would be a political disaster and, indeed, a longer period of grace on its own would not resolve the problems? What is needed now is not a blame game but an intense period of co-operation between the officials of all four jurisdictions to make the total system work, north-south and east-west.

**Lord True (Con):** My Lords, I agree that we need practical and urgent action. I certainly do not engage in any blame game; I simply draw attention to the fact that it was the EU that invoked Article 16.

**Baroness Suttie (LD) [V]:** My Lords, the threats against port staff in Larne and Belfast are totally unacceptable, as is the graffiti that has been sprayed on Alliance Party offices, including on the office of my friend Stephen Farry MP. Does the Minister agree that it is time for calm language and concentrating on finding practical solutions to make the protocol work for all, such as working to achieve an EU-UK veterinary agreement, which would genuinely UK food producers?

**Lord True (Con):** I strongly agree with the noble Baroness's remarks about violence. The safety of staff at our ports is our top priority and we are engaging actively with the PSNI to understand and follow the situation. Again, I would agree with her that it is now incumbent on all parties, including the EU, to address practical and lasting solutions to the issues that remain.

**Lord Kerr of Kinlochard (CB) [V]:** I applaud the Minister's answers. I am sure he is right. I am also sure that the joint committee could agree and will agree extensions of the grace periods until trusted trader schemes are up and running. However, SPS checks, which we agreed, and some supermarket shortages cannot possibly constitute the exceptional circumstances that annexe 7 to the protocol says would be required before Article 16 action was envisaged. Yet we have—the Prime Minister has, on 13 January and again yesterday—clearly threatened Article 16 action. Does the Minister believe that, if we were to destroy the protocol, the European Parliament would proceed to ratify the trade treaty?

**Lord True (Con):** My Lords, I am not going to follow the noble Lord in a litany of "what ifs". We should address "what now", and the EU has a responsibility to help to address that.

**Lord Lamont of Lerwick (Con) [V]:** My Lords, the red tape of the protocol has made much business between GB and Northern Ireland uneconomic. EU spokespersons have publicly advised that the way in which to avoid the cost of the checks is to source more goods, particularly food, from the south. Is not the risk that the Northern Ireland economy will gradually drift away from the UK single market and east-west trade will be increasingly replaced by north-south trade? That will have potentially profound political implications. Is it not that which is alarming people? I ask my noble friend to confirm that, if these matters cannot be sorted out through the joint committee, the Government will not rule out unilateral action.

**Lord True (Con):** My Lords, the position of businesses and the impact on them are obviously something that the Government monitor and watch with concern. My right honourable friend the Chancellor of the Duchy of Lancaster has told Vice-President Šefčovič that our focus must be on making the protocol work in the interests of people and businesses in Northern Ireland. As to the last part of my noble friend's question, I do not resile from, indeed I support strongly, what the Prime Minister said in the other place yesterday.

**The Earl of Kinnoull (Non-Afl) [V]:** My Lords, cool heads and dialogue are needed in such difficult circumstances between all the institutions of the UK, Ireland, Northern Ireland and the EU. I welcome the joint statement's commitment yesterday to the Good Friday agreement and to avoiding disruption to the everyday lives of the people of Northern Ireland. What further changes to arrangements for the movement of goods arising out of the joint committee agreement of 17 December are still to be enacted, and when will they be?

**Lord True (Con):** My Lords, this is an ongoing process and obviously, as the noble Earl will know, my right honourable friend sent a further letter to Vice-President Šefčovič this week embracing a wide range of matters that we believe need to be addressed. However, I certainly agree with the noble Earl's original remark that cool heads are required in this situation.

**Lord Murphy of Torfaen (Lab) [V]:** My Lords, while condemning the intimidation aimed at border control staff and deeply regretting the European Commission's attempt to invoke Article 16 or, indeed, any attempt to do so, does the Minister agree that what is now needed is calm negotiation between the Commission and the Government and, above all else, between the political parties and their respective leaders in Northern Ireland itself?

**Lord True (Con):** I strongly agree with the tone of the noble Lord's remarks and recognise his experience and wisdom in this area.

**Lord Alderdice (LD):** My Lords, some of the disarray of recent days is a result of the insistence of the EU and the acceptance by the British and Irish Governments that all significant bilateral issues must be dealt with by UK-EU meetings instead of British-Irish meetings. How many times has the British-Irish Intergovernmental Conference established under the Good Friday agreement met since the triggering of Article 50? What were the dates and venues of those meetings? If the Minister is unable to provide that information at the moment, which I would understand, will he write to me and put a copy of the letter in the Library?

**Lord True (Con):** I certainly undertake to do that. The noble Lord has asked a number of detailed points and I will write to him, but while I am on my feet, I will say that I believe that the Irish/UK strand is an important one that might help in assisting to resolve some of these problems.

**Lord Howard of Rising (Con) [V]:** Is the recent imposition by the EU of a land border between southern and Northern Ireland, for however brief a period, by invoking Article 16 of the Northern Ireland protocol and without even informing the parties to the agreement, including the Irish Prime Minister, a serious violation of the spirit of the Good Friday agreement, to which the EU claimed to attach so much importance during the withdrawal negotiations?

**Lord True (Con):** My Lords, I believe that it is highly regrettable, and this point was made by my right honourable friend the Prime Minister yesterday. We should all attach importance to the Good Friday agreement and I hope that the Commission will now give lasting attention to that point.

**Lord Empey (UUP) [V]:** My Lords, I join other colleagues in condemning the intimidation. Northern Ireland has been used shamelessly by the EU and others as a political football during the recent negotiations. However, to what degree are Her Majesty's Government prepared to look at genuinely at alternatives that can be negotiated with the European Union and with the parties in Northern Ireland, and will those parties be properly consulted about the way forward? I ask this because many feel that they have been ignored.

**Lord True (Con):** My Lords, my noble friend has made an important point and he is quite right about the involvement of the parties. One of the sad aspects of this has been the bypassing of the parties in Northern

Ireland. My right honourable friend set out a detailed set of proposals which are in the public domain, and he has indicated in those that if it is not possible to agree a way forward in the way we have proposed, the UK will consider using all the instruments at its disposal.

**Lord Hain (Lab) [V]:** My Lords, the Irish protocol does of course contain the flexibilities that can resolve this impasse and it is a treaty that is backed by Parliament. Surely the Government must accept that the chaos facing many Northern Ireland businesses trading across the Irish Sea is the predictable consequence of their hard Brexit stance, which is backed enthusiastically by the DUP, coupled with the Prime Minister's ludicrous promises of unfettered access from day one. It is no good complaining about the protocol when it is the consequence of the very hard Brexit that the Tories and the DUP wanted, despite Northern Ireland voting decisively against that.

**Lord True (Con):** My Lords, we have moved from "what if?" through to "what now?" to "what then?" The fact is that a decision was made by the British people to leave the EU customs territory and the single market, and we must proceed having accepted that solution.

**Lord Lexden (Con):** Will the Government follow the precedent they set after our formal withdrawal from the EU with regard to the transition period and lay down with the EU a firm deadline for the reform of the protocol as a stage towards its replacement by arrangements that are capable of commanding the confidence of our fellow country men and women in Northern Ireland, as the protocol patently cannot?

**Lord True (Con):** My Lords, I will not anticipate from this Dispatch Box what might be the progress of negotiations. I take note of the point made by my noble friend, given his great experience. In the first instance, my right honourable friend the Chancellor of the Duchy of Lancaster and Maroš Šefčovič must get together to address, we hope, the substantial range of points set out in the Chancellor's letter.

**Lord Dodds of Duncairn (DUP) [V]:** I too condemn all threats made against anyone in Northern Ireland, including the previous threats made by republicans against those working on the Irish border. Last week, the European Union showed no regard for Northern Ireland. It demolished the rationale behind the Northern Ireland protocol, lowered the bar for the triggering of Article 16 and demonstrated its one-sided, pro-nationalist approach by disregarding the Belfast agreement. Does the Minister agree that the problems are real, having been brought about not by the Government and the parties in Northern Ireland but by those who, like the noble Lord, Lord Hain, advocated the Northern Ireland protocol? They need to be fixed either through renegotiation or through action by the Government. Will he robustly defend the need for this Parliament and Government to protect the internal market of the United Kingdom?

**Lord True (Con):** My Lords, I agree with the noble Lord. I will end as I began, by condemning all violence and threats of violence. Flexibilities have been invoked. They are required on both sides, as are pragmatism

[LORD TRUE]  
and proportionality. In the negotiation, we need to provide a reassurance that all parties will respect the basis on which the protocol was agreed. That includes full recognition of Northern Ireland's status as an integral part of the United Kingdom, respecting its place in the UK's customs territory and internal market and recognising the integral social, economic and cultural ties that bind the UK as a whole, and safeguarding the streamlined flow of goods between Britain and Northern Ireland on which so many lives and livelihoods rely. We are also respecting the need to maintain the support of both communities. That is our objective and it is the one to which Her Majesty's Government are dedicated. I hope sincerely that our counterparties in the European Union will address the same agenda.

**The Deputy Speaker (Lord Russell of Liverpool)**  
(CB): My Lords, all the supplementary questions to this Question have been asked.

### Procedure and Privileges Committee *Membership Motion*

1.16 pm

*Moved by The Senior Deputy Speaker*

That Baroness Quin be appointed a member of the Select Committee, in place of Lord Whitty.

*Motion agreed.*

### Covid-19 Update *Statement*

*The following Statement was made in the House of Commons on Tuesday 2 February.*

"I rise to make a Statement on the fightback against coronavirus.

Across the country, our vaccine roll-out continues at pace. With each vaccine we administer, we are one step closer to normal. As of today, we have vaccinated 9.2 million people. I thank everyone involved in this collective national effort that saw nearly 1 million people get vaccinated last weekend alone, or, to put it another way, one in 60 of all the adults in the UK. We have now protected almost nine out of every 10 people over 80 and half of people in their 70s. I am delighted that we have been able to visit every eligible care home, 10,307 in total. I want to thank everyone involved in that effort, including the NHS, our dedicated staff in social care, and the residents themselves, too, for coming forward. I pay tribute to the Minister for Care who has worked so hard to help us meet this ambitious target.

I know that many of us in this House are playing our part in the national vaccination effort. Today, we published a new resource for the House that provides more information on the vaccine roll-out and how all colleagues can play an important part in increasing the take-up of the vaccine in their area, because the take-up will directly impact how effective the vaccines are and how fast we can safely get out of this.

We are confident we have the supplies to meet our target to offer the vaccine to the four most vulnerable groups by 15 February. We now have over 400 million

doses of vaccine on order, including the additional 40 million doses from Valneva that we ordered yesterday. That we find ourselves in this position is no accident. Our strategy has been to invest early and invest at risk. We have backed many horses, no matter where they are from, and we have also built up our vaccine manufacturing capability here at home.

As a result, today we have the AstraZeneca jab being manufactured in Oxford, Staffordshire and Wrexham, the Novavax vaccine made in Teesside and the Valneva vaccine manufactured in Livingston in Scotland. It is a great example of what we can achieve together, working as one United Kingdom.

Despite this optimistic backdrop, we must continue to act with caution, not least because of the renewed challenges posed by new variants of the coronavirus. We have found here 105 cases of the variant first identified in South Africa, including 11 cases that do not appear to have any links to international travel. As with the variant first identified here in the UK, there is currently no evidence to suggest it is any more severe, but we have to come down on it hard. Our mission must be to stop its spread altogether and break the chains of transmission.

In those areas where this variant has been found—parts of Broxbourne, London, Maidstone, Southport, Walsall and Woking—we are putting in extra testing and sequencing every positive test. Working with local authorities, we are going door to door to test everyone in those areas. Mobile testing units will be deployed, offering polymerase chain reaction tests to people who have to leave their home for work or other essential reasons. We have also seen 11 cases of mutations of concern in Bristol and 32 in Liverpool and are taking the same approach. In all these areas, it is imperative that people stay at home and only leave home when it is absolutely essential to do so.

When your local authority offers you a test, you should take up the offer, because we know that around one in three people with coronavirus has no symptoms but can still pass it on. We are offering testing to everyone aged 16 and over, even if they have been vaccinated. If you live in one of those areas, but have not been contacted and are unsure whether you should have a test, I encourage you to visit your local authority website to find out. Anyone who must leave home—to go to a workplace, for instance, because they cannot work from home—should get tested. All local employers should support and encourage their workers to get tested. The message is more important than ever: stay at home, maintain social distancing and get tested.

Across the whole country, we are expanding workplace testing, including here in Parliament. This morning, Mr Speaker, you and I together visited the new Covid testing site in Parliament which offers all those who work here—Peers, MPs and staff—the chance to get tested. I took a test this morning—it was, thankfully, negative. It is quick and easy and you get the result back fast. I encourage colleagues who have to be here in person to sign up and do the same.

For all of us, no matter where we live, we need to continue to follow the rules, because while more scientific work is under way to learn more about new variants, we know with absolute certainty that social distancing works. It denies the virus the social contact it needs to

spread. We must all keep at it. We have sacrificed too much—and come so far with the vaccine—to give up now. I know that we will not.

While we have been working night and day to fight coronavirus, I have often drawn inspiration from our fight against another killer pandemic, HIV, a disease that also took too many people before their time. This is National HIV Testing Week. It is a reminder of how important it is to get your free HIV test, but it is also a reminder of the progress we have made in tackling that terrible pandemic that we can credibly commit to no new transmissions by the end of this decade. Today I am sure the whole House will join me in wishing Lord Norman Fowler a very happy 83rd birthday. He was an inspirational Health Secretary and a fearless advocate for tackling HIV and AIDS. Lord Fowler is someone who knows the importance of taking action early and the power of testing to turn the tide.

As we face these difficult weeks ahead, we can all draw inspiration from that great struggle and know that even when faced with a mountain of challenges, science, ingenuity and the sheer power of will can see us to better days ahead. I commend this Statement to the House.”

1.18 pm

**Baroness Thornton (Lab):** I thank the Minister for this debate on the Statement made in the Commons on Tuesday. I start by joining the Minister and everyone across Parliament and government in sadness at the death and in celebration of the life of Captain Sir Tom Moore. I also join everyone in celebrating the fact that 10 million people, 15% of the population, have now been vaccinated with a first dose. That is a fantastic achievement and I am so grateful to the NHS and all those who have contributed to this amazing national effort. Another Statement about vaccines is being taken in the Commons today, so I think we can see that this is a fast-moving world that requires Parliament to be quick on its feet to make an input and provide both scrutiny and support.

However, we are all aware of some people who are refusing the vaccine, including care workers. Can the Minister advise the House how many people in the priority vaccine groups have refused the vaccine? If he does not yet have these figures to hand, can he say when the figures, broken down by area, age, gender and ethnicity, will be available? This data seems to be crucial to understanding and tackling vaccine hesitancy moving forward. I am sure that the Minister will be aware of the research carried out by Professor Tim Spector and his team at King's College London into why people are refusing or doubtful about the vaccine. Only yesterday there was a webinar about this. What was quite clear from that is that communication and example setting are important, and I hope that the Minister can share some of the thinking that may be going on about how to tackle this.

I turn now to the vaccination of the most vulnerable. I thank the Minister for his letter today in response to my question last week about how the bedridden and the homebound, and their carers, are being vaccinated. I would appreciate it if we could have some numbers showing how many people are in this vulnerable cohort. Only yesterday on the news we saw the example of an

elderly man living alone who is recovering from cancer. He is isolated and his family are very anxious indeed that he has not yet been vaccinated.

According to recently released figures, Covid-19 deaths in care homes in the week ending 22 January represented 46% of all deaths in homes. That was the highest proportion of deaths since the beginning of the pandemic, surpassing even the previous high of 39.2% set last May. During that week, 1,817 care home deaths involved Covid-19, taking the total to more than 25,000. Gavin Terry, head of policy at the Alzheimer's Society, said that, given the worsening figures “staff vaccinations must be urgently prioritised along with rapid rollout of second jabs.”

The Government are being optimistic in saying that vaccines have been offered in care homes—but that is not the same as them having been taken up. Time is rolling on for older people who have not been able to see and touch their loved ones for almost a year. We all admit that this is cruel. In many ways, it underlines the dreadful inequalities that Covid has revealed in our society and its care of the most vulnerable.

If the current rate continues, the UK will be on track to have offered a dose to everyone in the top four priority groups by mid-February and to complete the remaining five priority groups in early April, when the need for the second dose begins.

The Minister will be aware of concerns as to whether medical and administrative staff can continue at the current pace for many months at a time, when many are already working seven days a week. What steps are the Government taking to relieve the pressure on staff and ensure that the pace of vaccination remains sustainable in the weeks and months ahead?

The new research from Oxford shows that the AstraZeneca vaccine is 76% effective after one dose and can reduce transmission by 67% over 12 weeks. This is fantastic news. Will the JCVI review this evidence and consider using the AZ vaccine to help prevent spread of the disease—not just serious illness and death—once everyone in the priority groups has received two doses? This would allow public health directors to speed up the vaccine rollout in more deprived communities, including among black and ethnic minority groups, and in hotspots where the disease is threatening to run out of control.

We all agree that children's health must always be a priority. On current plans, how many teachers will be vaccinated as part of bands 5-9? How many teachers and support staff will have to wait until the period between Easter and summer to be vaccinated? Last September, it was reported that 25,000 teachers had been off sick with Covid-related illness, further disrupting children's learning. How can the Government ensure that we do not see the same disruption again from March, when it is hoped that the schools will return? I hope that the JCVI will prioritise this as part of its review because, once schools have reopened, we need them to remain that way.

Finally, high infection rates, death rates and the identification of the South African variant in the community and the E484K mutation in the infectious Kent variant are deeply worrying. Although the noble Baroness, Lady Harding, claims that this was

[BARONESS THORNTON]

“something that none of us were able to predict”,

the Minister must know that scientists have long warned of new variants as the pandemic unfolds and that the likelihood of mutations increases when there are high rates of transmission. It is more urgent than ever that this hole in our defences is fixed.

Increased testing is always welcome but will ultimately be insufficient unless test and trace is made to work for everyone. This week, the noble Baroness, Lady Harding, advised that at least 20% of people—she reckons approximately 20,000 a day—who should be self-isolating are not abiding by the rules. These figures demonstrate the need for both decent sick pay to break the chain of transmission and for test and trace to work properly.

**Baroness Brinton (LD) [V]:** My Lords, we also express our condolences to the family of Captain Sir Tom Moore. He was an inspiration and an example to so many.

The health Statement reminds us that this is HIV testing week. HIV Prevention England rightly says that the message about early HIV testing must be well publicised. I pay tribute to our Lord Speaker for his key role as Health Secretary in the 1980s in managing urgent and uncompromising messages to the public about HIV and AIDS. This Government could learn much from those campaigns about communicating clear messages.

From these Benches, we also echo the excellent news that 10 million people in the first four priority groups have been vaccinated so far. Last week, I asked the Minister whether the vaccine dashboard could break down vaccine take-up below national level. I note that this Statement says that this is happening at local health and local authority level. However, there is still no breakdown between health and social care staff. On Tuesday, the United Kingdom Homecare Association reported that only 32% of its staff had been vaccinated so far. It said that invitation to vaccinate care staff was a local lottery, with some areas having excellent arrangements, but others not. Live-in carers face even harder access to vaccines, as they are often completely left off local vaccination lists.

Further, we know that some care staff have concerns about taking the vaccine, so dialogue is vital. Recently, there was an excellent radio interview with a GP from the north-east who explained how they had talked to staff who were worried about vaccinations at the care home where they worked. Those staff were reassured and were vaccinated. Too many social care staff are just referred to large vaccination hubs with no opportunity to discuss it with a known and trusted GP. Will the Minister ensure that GP surgeries can still have vaccine doses for everyone in groups 1-4, including social care staff, so that the barriers to vaccination are tackled and removed? Please can we see the NHS and care staff separated out on the vaccine dashboard?

This Statement also raises the emerging problems with the South African variant, with further restrictions in some postcodes. These, as well as the new changes to the UK variant discovered in Bristol and Liverpool, remind us that Covid-19 is still challenging us at every turn. I say well done to the local directors of public health and leaders of councils, working with their

local NHS, on their excellent speed of response and the clarity of their local messages to people in the relevant postcodes.

I have a couple of questions for the Minister. First, Ministers have said that the new South African variant problems were discussed and planned for last Thursday. So why was there not an announcement before the weekend, ensuring that affected residents could protect themselves and their neighbours as soon as the risk was apparent? Secondly, the Statement says that everyone in these areas must have a PCR test—good. However, a letter sent from the NHS to hospital staff said that no staff were to go to work until they had had the results of a PCR test. Given that hospitals already have a large number of staff off sick or self-isolating, what help are they getting to deal with further staff absences?

The Minister will remember that I have urged the Government to include unpaid carers in the priority list in order to protect those they care for. The announcement of their inclusion in priority group 6 is welcome. However, they are not in the summary lists in the vaccines delivery plan. Will the Minister commit to clear up any confusion by explicitly including unpaid carers in government communications and by publishing specific guidance on making sure that they are vaccinated as part of group 6?

Finally, we look forward to hearing the Prime Minister speak on 22 February about the route map out of this third lockdown. Progress on vaccination is vital, but test, trace and isolate is also essential if we are to avoid a fourth national lockdown. We on these Benches believe that people who are self-isolating should be paid their wages and have access to a proper care package, as in Germany and Taiwan. We have been asking for this for 11 months. The failure of people to comply with self-isolation rules demonstrates that the current system is not working. Will the Government urgently review the arrangements for isolation and encouragement to comply?

Yesterday, Chris Whitty and the Prime Minister were clear that this third lockdown cannot be lifted until it is safe to do so. Yet already MPs and some Peers are pressuring the PM to open schools immediately. Strong, clear messaging is needed every day—as strong as on the AIDS campaign by the noble Lord, Lord Fowler, 30 years ago. We know from polling data that the vast majority of people want to do the right thing. The Government’s role is to tell us what and why and to provide support for those who need help to do it.

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con):** My Lords, I am enormously grateful to both the noble Baronesses for their thoughtful and provocative questions. I join the noble Baroness, Lady Thornton, in paying tribute to Captain Sir Tom Moore. His story touched on something we have talked about in this Chamber this year: the way in which someone, in their 99th year, can make a tremendous impact on the whole country, bringing us together and raising money for NHS staff. It was an amazing achievement so late in life. It demonstrates that every year of every life, however late in that life it is, is valuable. That is why this Government are extremely

proud of the measures that we have put in place to protect the lives of, and avoid severe harm to, the elderly and infirm.

I also share in the noble Baroness's tribute to NHS staff and the vaccination rollout. She is entirely right; there is huge mental and social attrition across the NHS at the moment. The hard work that goes on, particularly in intensive care, is having a tough impact on those who work there. We hear of the need for some form of respite for NHS staff, loud and clear, but I have to be candid: when we are done dealing with the hospitalisations for Covid, there will be a massive wall of work to manage the huge backlog and restart business as usual. We are looking at the human investment needed. I pay tribute to my colleague Helen Whately, the Minister who covers the NHS workforce. She speaks to the NHS and social care workforce daily. We are looking extremely carefully at the investment that will be needed to support healthcare staff in the difficult year ahead.

The noble Baroness, Lady Thornton, asked about those who refuse the vaccine. I am afraid that those statistics do not exist, because people do not identify themselves as vaccine refusers. However, the overall picture is extremely positive at the moment. Those in categories 1 to 4 are stepping forward for the vaccine in tremendous numbers, and we are extremely encouraged by that. I take on board the insight of Tim Spector and others who have spoken thoughtfully about the barriers. I pay tribute to civic and particularly religious groups, which have often put vaccination sites in their temples, synagogues, churches and other religious settings. That is exactly the kind of trusted civic engagement that has led to vaccine deployment reaching deeply into communities that might otherwise have been worried or suspicious.

The challenge that we will face will be when we turn our attention to the younger. To answer the other question from the noble Baroness, Lady Thornton, we will be rolling out the vaccine to all age groups. The very good news from AstraZeneca about the vaccine being an extremely effective agent against transmissibility is exactly what we need to know, because it gives a green light to using the vaccine to avoid not just severe illness, hospitalisation and death, but transmissibility. We have to get the message across to those whose lives are not necessarily saved by the vaccine—it saves someone else's life—that taking it is important and something they should feel trusting about and obligated to do. That will be the second phase of the vaccine rollout, and we are thinking carefully about how to do it as effectively as possible.

The noble Baroness, Lady Thornton, alluded to staff vaccination. She is entirely right about the very high number of Covid deaths in homes at the moment, and I reassure her that vaccines have been offered to every person in every home. There is an email address, which I would be happy to share with all noble Lords, for anyone who thinks that they have not been offered the vaccine. There is an absolute backstop for anyone who thinks that they have been overlooked or have missed out. We are doing our level best with an effective deployment and rollout programme to ensure that all social care homes, whatever their status, and all staff in them are protected by the vaccine.

I will say a word about schools and teachers. I completely support the views of the noble Baroness, Lady Thornton, and many other Peers who have spoken thoughtfully and emotionally about the importance of getting schools back. The Government and I agree that this is our priority. I spoke to the Schools Minister, Nick Gibb, about this yesterday. I pay tribute to the work of the Department for Education in rolling out testing in schools. Either today or very soon, we will have had the millionth test in schools, which is a great tribute to the work that schools, teachers and the DfE have done on asymptomatic testing in schools. It is an important way to cut the chain of transmission and to protect all those in schools, from both the disease and being agents of transmission to those who are more vulnerable. I support all the measures on social distancing, PPE and testing that we can put in place to keep schools open.

When it comes to vaccinating teachers, I emphasise that saving lives and avoiding severe harm is the priority for the vaccination programme. While we are sympathetic to teachers and will definitely have them on the prioritisation list, the protection from harm and death is our current priority.

We take the news on mutations from South Africa, Brazil, California, Kent and Bristol, and all the other manifestations of mutations, extremely seriously. The noble Baroness, Lady Harding, spoke about not expecting a mutation, but of course it was not the virus mutating that was not expected—that is commonplace. The CMO spoke about that impactfully and early, in February and March; he utterly predicted that mutations would lead to a second wave. But the virus had not mutated much last year. In fact, it was a phenomenally rigid and consistent virus for a long time. What was not easy to predict was that a highly transmissible disease would emerge that completely outperforms its previous classic manifestation. We saw that only when the infection rates started to climb extremely quickly. We changed our tack accordingly, and we continue to change our tack.

As I have said from the Dispatch Box previously, we are in a different game now. Previously, the focus was on keeping a lid on infection rates and getting the prevalence levels low. That remains an important feature of our battle against Covid. On the other hand, we have to protect the vaccine. We are aware of the potential for a mutation to emerge that escapes the vaccine. That has been seen in other diseases and could be seen in this disease. That is why we have mobilised Operation Eagle to track down the South African variants that have landed in the UK, where we do not have a clear chain of transmission. That is why we are going door to door, offering PCR testing to all those—around 10,000 people—in each of the relevant postcodes, to put a lid on any community transmission. That is why we have deployed a special team, tracing variants of concern, which is tracking down the origins of each infection to stamp out and suppress variants of concern, where they emerge.

This is exactly the kind of capability that we need to put in place should a highly transmissible vaccine-escaping variant manifest itself. I pay tribute to those in test and trace who have put together this capability extremely quickly and are implementing it so thoroughly.

[LORD BETHELL]

Both the noble Baronesses, Lady Thornton and Lady Brinton, alluded to the important issue of isolating. I hear those points loud and clear. We support those who are isolating, and make a £500 payment to those on benefits, who need it. Charities and local authorities support those who isolate. But I hear the point made about additional measures, and we are looking at further ways to support those who are required to isolate, either because they are infected themselves or because they are the contact of someone who is infected.

The noble Baroness, Lady Brinton, spoke thoughtfully and movingly about the role of the Lord Speaker in fighting HIV and AIDS, and I join her in paying tribute to the Lord Speaker, whose 83rd birthday was earlier this week. The messaging in that campaign was poignant, it cut through and we all remember it very well.

I also pay tribute to those in the communications team who have, during the last year, put through some incredibly impactful campaigning around the Covid messages. There has been massive societal behavioural change because of the clarity and the impact of the campaigns that we have done. Those campaigns have got better and better, and the most recent “look into my eyes” campaign, as it is now called, is one of the most impactful. When we look back on this campaign, we will think very highly of the marketing and communication skills of those in the Department of Health, the Cabinet Office and other departments, who have worked so hard in this area.

The noble Baroness, Lady Brinton, alluded to the vaccination of social care staff. She is absolutely right to allude to lists. One of the current difficulties is that we do not have proper lists of all those who work in various roles in social care, either as domiciliary staff or in unpaid roles. My colleagues are looking at this, and we are moving quickly to address it. I know that the noble Baroness feels very strongly about the vaccine dashboard; I have taken it back to the department and spoken to the vaccine team about it and I will raise the matter with them again. Regarding the unpaid carers and the delivery plan, I will take that to the department again. I will be happy to write to the noble Baroness.

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

1.41 pm

**Lord Patel (CB) [V]:** My Lords, science has got us this far and will get us through in the long run. In that context, the recent report from the British Society for Immunology stresses the importance of knowing the efficacy of Covid-19 vaccines across all age groups and the need for immune monitoring across the vaccinated population. With the great news of over 10 million people having been vaccinated, we must know the nature and length of time of immunity that each vaccine delivers. The UK is in the best position to obtain this information that will help to plan future vaccination programmes, but we must start nationwide

post-vaccination immune monitoring now. Will the Minister consider meeting the president of the society, Professor Arne Akbar, to explore this further?

**Lord Bethell (Con):** My Lords, the noble Lord alludes with characteristic insight to one of the great frustrations and mysteries of Covid. It seems to me, a lay person and a neophyte in this area, that understanding the body’s immune response to something as simple as a virus such as Covid should be straightforward, but it is one of the unlocked mysteries of Covid. We are working extremely hard to unlock the mystery of it all. We have invested a huge amount in immunology and the detection of antibodies in the British public. I pay tribute to the UK Biobank study, a massive survey which has been going on for six months. It has found that 8.8% of the UK population had been infected by December 2020; 40% of them did not have a single classic symptom of Covid, and a quarter of those with antibodies were completely asymptomatic. We are doing other assessments as well—through the ONS, REACT, blood donors, the RCGP and others—and I would be very pleased to meet Professor Akbar to discuss this work further.

**Lord O’Shaughnessy (Con) [V]:** My Lords, in asking my noble friend the Minister about schools, I declare my interests as set out in the register. Last week, Public Health England confirmed that the health risks to and from the primary school population were very low, and that teachers are not at greater risk than the rest of the population of getting Covid or suffering its consequences. Other countries with similar case rates, such as the Netherlands, are planning to reopen their primary schools next week. Does the Minister agree that the toll of school closures is particularly acute on younger children and their parents, because those children often are unable to work independently, while the health benefits of these closures are minimal? Should the primary schools not be the very first institutions to open on 8 March?

**Lord Bethell (Con):** My noble friend hits the nail on the head. Nothing could be a greater priority to the Government than the opening of all schools, and primary schools are at the top of the list. I pay tribute to all those parents and, if I may be so bold, particularly the mums, who have taken on the bulk of the work in dealing with young children at home while juggling other commitments to care and work. This is one aspect of one of the greatest emotional tolls on the British public. My noble friend is entirely right that the opening of schools is a massive priority. It hits hard those communities that depend on schools for care, and those that do not have the resources for at-home teaching. I completely agree with his assessment and assure him that it is a primary priority of the Government.

**Lord Winston (Lab) [V]:** My Lords, the Minister also hits the nail on the head when he talks about a highly infectious new variant that is resistant to the vaccine. As he knows, the scientists have been pointing out that we will be living with this virus for a very long time, and other viruses like it will emerge in due course. I refer to an answer he gave me last week when



I asked about antivirals. There are a number of antivirals in development at the moment in this country that look very promising, an interferon beta-based compound by Synairgen and ACTIV-2, which could be used for ambulant patients in the early stages of the disease. If we got people as soon as they had symptoms and tested positive, we could do a great deal of good and reduce the risk of mutation in the population. Have the Government any plans to do what they did excellently with vaccines: pre-order antivirals as they come through phase 3?

**Lord Bethell (Con):** The noble Lord is entirely right to raise this issue. There is the awful possibility that the mutant vaccine escape virus could get around the vaccine altogether. We need a plan B, which might be dependent on antivirals as an alternative way of managing the disease. That is what happened with HIV, as we discussed last week. The therapeutic taskforce is looking at antivirals and putting together a plan to upscale our investment in that area. I am aware of Synairgen and ACTIV-2, but he is entirely right that this should now be a greater priority. I will take the matter back for the department to look into further.

**Lord Scriven (LD) [V]:** My Lords, virologists tell us that, even with vaccines, we will be living with Covid for years to come. The Statement says:

“Our mission must be to stop its spread altogether and break those chains of transmission.”

To ensure that this happens, what changes have been made during this lockdown to improve the outcomes of the £22 billion test, trace and isolate system, for when the restrictions are eased?

**Lord Bethell (Con):** My Lords, I pay immense tribute to the test and trace system, which, at 11 am, published remarkable performance figures, as the noble Lord probably knows; 92% of tests were turned around before the next day, and 86% of contacts were traced. This is an incredible performance. On his specific point, the creation of a variant-of-concern tracing group that is targeted at those rare appearances of VOCs in the community is the important development that we have put in place in reaction to the mutant variants. I pay tribute to Steve McManus, who is running that programme, for the impact that he has already made on the problem.

**Baroness Finlay of Llandaff (CB) [V]:** My Lords, with the emergence of new variants, questions over vaccine-induced antibody response to these and the risk of children as asymptomatic carriers, will the Government ensure that schools’ policies are flexible, adapted to each child’s needs, so that children shielding a very sick parent or sibling at home will be able to continue with home schooling and not be forced back through punitive threats on parents; while children needing the security of school can continue to access school as at present and when the majority have the benefit of being able to return?

**Lord Bethell (Con):** I reassure the noble Baroness that we are absolutely putting the arrangements for pupils in the hands of schools themselves, because they

know best how to look after their pupils and their teachers. The role of test and trace is to provide testing facilities and the resources to make schools safe, but it is up to the Department for Education, the local authorities and the schools themselves to protect those who need special arrangements, either because they are shielding or because they have other needs.

**Lord Cormack (Con) [V]:** My Lords, I am sure that my noble friend will agree that everything possible must be done to ensure that this is the last national lockdown. To that end, is it not important that all information on vaccines, however sensitive it may be, is shared with Opposition leaders, if necessary, on Privy Council terms? Would it not help to avoid confrontations inside and outside the Chamber of the other place if the Prime Minister and the leader of the Opposition were to have a scheduled weekly meeting?

**Lord Bethell (Con):** My Lords, they do have a scheduled weekly meeting: it is called PMQs. It is up to either side to decide how well it goes. To reassure my noble friend, we publish absolutely everything on the vaccine. We even publish the formula of the vaccine itself. The data is shared with local authorities—it is out there on the internet—and we could not be more transparent if we tried. We have worked very closely with the Information Commissioner; we have a massive data analytical team; and we are as open as we possibly can be because we believe that trust in the vaccine is absolutely essential to uptake, and therefore it is in our interests to take an open and transparent approach.

**Baroness Andrews (Lab) [V]:** My Lords, the Minister said, quite rightly, that the priority for the vaccine is saving lives. Adults with learning difficulties have death rates comparable to those of the over-80s. Given the success of the vaccine rollout, is there any flexibility now for prioritising highly vulnerable groups, particularly when we know that the variants have to be controlled with extra vigilance?

**Lord Bethell (Con):** My Lords, the noble Baroness is right, and I am grateful to her for giving me sight of her question in advance. Her point is completely valid and I support her interest in this. The JCVI has made it plain what the initial rollout of priority groups 1 to 4 will be, but there is a mechanism whereby it reviews and reassesses the rollout of further priority groups. That will be the moment when it can look at the kind of questions she raises about groups, such as those with learning difficulties, who have a high rate of mortality. I can reassure her that it is conducting a rolling review of the rollout of the vaccination and will take these matters into account.

**The Deputy Speaker (Lord Russell of Liverpool) (CB):** Since the noble Baroness, Lady Jolly, has withdrawn her name, I call the noble Baroness, Lady Watkins of Tavistock.

**Baroness Watkins of Tavistock (CB) [V]:** My Lords, I ask the Minister about British citizens working overseas. I declare an interest in that my son is in this category.

[BARONESS WATKINS OF TAVISTOCK]

We have done such a fantastic job here on the vaccines to date, but there are many British citizens working abroad in a volunteer, business or diplomatic role. They recognise the need for quarantine and the need for vaccinations to enable them to work between their UK base and their overseas commitments. How best can the Government include those UK citizens in our vaccination programme—clearly, not giving them priority but to ensure that we protect their health, as well as that of people living in Britain at the moment?

**Lord Bethell (Con):** My Lords, the Government take very seriously their commitments and obligations to those British citizens who live overseas. It is a matter of considerable concern that they be included in the vaccination deployment. However, there are certain practical challenges with this, so we invite those who want the vaccination to return to British shores so that they can be part of the vaccination process, and to ensure that they are registered with their GPs so that they are included in the list. The Prime Minister has made it very clear that we are putting border measures in place that will ensure that we are protected against mutations and variants. Once again, therefore, I invite all those living overseas who want the vaccination to ensure that they have thought-through arrangements in place to return to this country to get their vaccinations.

**Lord Sheikh (Con) [V]:** My Lords, there is evidence of hesitancy to take Covid-19 vaccinations, particularly among some minority communities. I am involved in a national campaign that is actively encouraging everyone to take the vaccine. I raised this point in your Lordships' House on 13 January, and my noble friend Lord Callanan arranged for us to meet virtually with senior officials from the Vaccine Taskforce. We have had two productive meetings with officials and are moving forward in a satisfactory manner. We received support from Nadhim Zahawi's office as well as support and participation from a number of other Members from both Houses. Kawsar Zaman, who is a young, bright barrister, is undertaking the bulk of the work on our side. I thank everyone who is rendering this support and assistance, including my noble friend Lord Bethell. I hope that if we all work together, we can achieve the right results in the country. Does my noble friend agree?

**Lord Bethell (Con):** My Lords, I pay tribute to my noble friend for his work in this matter. I am extremely pleased to hear that the meetings with officials have gone well. I pay tribute to all those parliamentarians in this House and the other place for their spirit of collaboration and for the unity with which those with an ethnic background, in particular, have worked together to champion the message around the vaccine. It is only through example and trusted influencers that we can get our message across. It has been one of the really refreshing and uplifting moments of this awful disease to see the kind of cross-party collaboration that we have in this matter. I am extremely grateful to my noble friend and all his colleagues for the work they are doing in the community to get our message across.

**Lord Dubs (Lab) [V]:** My Lords, I am sure that the Minister will be aware that domiciliary care workers are very vulnerable. They toddle around from person to person, they visit people's homes, and the people whom they support are also vulnerable. Will the Minister ensure that domiciliary care workers are given the maximum protection, whether through vaccines or through other protective measures?

Secondly—I could not give the Minister notice of this because I only got the details a few minutes before we started—refugees are being held at the Napier Barracks in Folkstone. I am told that there are people there with Covid who are sleeping in the same dormitories as refugees who do not have Covid. There is very little medical support. Will the Minister, as a matter of urgency, have a look at this and see what can be done?

**Lord Bethell (Con):** My Lords, we have done an enormous amount for those who have been working in domiciliary care. The noble Lord is entirely right to shine a spotlight on those who play such an important role in the community, caring for the elderly and the infirm. The amount of itinerant travel, where these workers move from one person to another, has been dramatically reduced—partly to reduce the fear of infection. PPE has been used and we are putting testing in place for those working in domiciliary care. I am extremely pleased to report that this has had a huge impact on infection rates, and we will ensure that they are prioritised in the vaccine rollout accordingly.

I did not get the full details of the particular issue raised by the noble Lord in his second question, but if he would be kind enough to send me an email, I would be glad to look into it as he requested.

**Lord Walney (Non-Aff):** My Lords, further to the question from the noble Lord, Lord Winston, on antivirals, I raise the issue of monoclonal antibody production. The work of the Government in establishing an enduring manufacturing capability and rollout capacity for vaccines is deeply impressive. Why, then, do they appear to be stepping back from the push to rapidly manufacture antibodies, which was a core part of Kate Bingham's Covid strategy?

**Lord Bethell (Con):** My Lords, I am not sure whether we are completely stepping back from the production of monoclonal antibodies. I am extremely grateful to the noble Lord for the briefing that he shared with me last month and for the opportunities to look at how we can onshore the manufacturing of monoclonal antibodies. He is entirely right: this is a critical area of life science production where Great Britain is frustratingly massively behind. In the resilience of our healthcare supply chains, we have a huge gap in this country, and it is one that we are keen to address. The Therapeutics Taskforce is looking at monoclonal antibodies as a way of supporting our response to Covid and we have, through Project Defend, a workstream to look at how we can encourage onshore manufacturing of these essential healthcare supplies.

**Baroness Tyler of Enfield (LD) [V]:** My Lords, recent laboratory tests by scientists at Cambridge

University show that one dose of the Pfizer vaccine may not produce sufficient antibodies to kill off the virus, particularly for the over-80s, leaving them at risk of catching the South African variant. Will the Minister say what assessment the Government have made of these findings and what plans they have to speed up the second dose of the Pfizer vaccine for the over-80s and all care home residents?

**Lord Bethell (Con):** My Lords, I am grateful for the reminder from the noble Baroness. The analysis we have done of the Pfizer vaccine, and indeed of all vaccines, is extremely encouraging and the impact it has on the body's antibody production rate is profound. In fact, for many vaccines it might be that a longer delay, of 12 weeks, to the second dose might have an improved impact on the body. The second dose is really important for longevity rather than for efficacy, and therefore, with the data we have at the moment, we do not have any plans to change the pace of the rollout, but we are making sure in absolute terms that the second dose is delivered to all those who have had a first dose, promptly and on time.

**Baroness Hollins (CB) [V]:** My Lords, the Minister repeated the statement earlier that said that all care home residents and staff have been offered vaccination, but this is not true for homes for people with learning disabilities. I was pleased to hear in the Minister's reply to the noble Baroness, Lady Andrews, that the JCVI is still considering priorities for groups 5 and 6. Is the Minister aware that 80% of the deaths of people with learning disabilities in England were Covid-19 related in the week ending 22 January, compared with 45% of the general population? Does he anticipate that all people with learning disabilities will be included in group 5 or 6?

**Lord Bethell (Con):** My Lords, I have taken the noble Baroness's insight on this to the department where it is being plugged into the Vaccine Taskforce and the JCVI. Her championship of this cause is to be lauded. The statistic she just cited is heart-rending, and I will definitely return to the department this afternoon and follow up, to ensure that it is being taken seriously.

**Lord Haselhurst (Con) [V]:** My Lords, such has been the success of the vaccine rollout campaign that it seems that, by Easter, many millions of people will be due their second dose. Can my noble friend indicate how supplies will be allocated between them and the many millions of other people, often in public-facing jobs, who might still be awaiting their first?

**Lord Bethell (Con):** My noble friend makes a key point on the dilemma we face. Do we prioritise the second dose or do we try to get the first dose to those who need it? Our policy is crystal clear: the second dose at 12 weeks will be delivered. Everyone who has had a first dose should get a letter or a contact in their 10th week and an appointment in the 11th week. That is our commitment, and we believe we have the supplies to see that through.

**Lord Liddle (Lab) [V]:** My Lords, I would like to pick up on the point made by my noble friend

Lady Thornton about what is being done about refusal of the vaccine. I was rather alarmed by the Minister's reply that there are no statistics on this. I accept that the Government have shown great transparency on vaccines, but the fact that there are no statistics on refusals is a worry. Do the Government think that more could be done by local authorities responsible for domiciliary care and care homes in their area to check on this? Could they be more active in trying to identify ethnic minorities on their lists who have not been vaccinated, so that something could be done?

**Lord Bethell (Con):** I am afraid to say that the noble Lord's point makes no sense to me whatever. We are not going to go around the country asking people whether they refused to take the vaccine. We have a dialogue with the whole country, and we wait patiently for people to step forward. I cannot give statistics on people who have refused because it would make no sense at all to ask people whether they are in that category.

**Baroness Bull (CB):** My Lords, can the Minister tell the House what assessment the Government have made of the risks presented by aerosols, which, unlike droplets, are small enough to remain suspended in the air for hours and which expose individuals at distances beyond 2 metres? New evidence is emerging all the time, the latest just this week from the University of Bristol. Does he agree that we need a clearer position and stronger messaging on the risk of aerosol transmission indoors and the importance of ventilation, particularly as the vaccination programme rolls out, which will inevitably lead to calls to release restrictions and to reduce the 2-metre rule? We may need to add a fourth word, "ventilate", to the mantra "hands, face, space".

**Lord Bethell (Con):** The noble Baroness is entirely right that understanding of the role of aerosols is growing. Frankly, I find it quite terrifying. She is right that we need to look particularly at the way our office spaces are ventilated. The statistics I have seen on the potential cost of rebooting the ventilation of the UK's workspaces in order to make them Covid-friendly are that it would cost tens of billions of pounds. Our focus is therefore on vaccine deployment, but work is going on to reimagine and envisage how workspaces could be made safer, not just for this pandemic but for the future. I can imagine a world where ventilation is given greater hygienic priority in future.

**Lord Dobbs (Con) [V]:** My Lords, I was rather alarmed at my noble friend describing himself as a neophyte. He rather strikes me as being a battle-hardened veteran by this stage. I shall ask him about convalescent plasma. We had high hopes of it a year ago, yet the recovery trial at Nuffield College has now been ended and the BMJ has concluded that there is no convincing evidence of its effectiveness. And yet the NHS website is still seeking volunteers, and just this morning I heard a radio advertisement pleading for more volunteers to come forward. Will he clear up the apparent confusion there? Is it still a possibility that this might be something we are pursuing, or has it been put to one side?

**Lord Bethell (Con):** My noble friend is right. The story of convalescent plasma is heartbreaking. I had

[LORD BETHELL]

extremely high hopes that it would be a rather wonderful way in which those who had been hit hard by Covid could be agents in the recovery of those who were newly in hospital. Convalescent plasma has a very successful record throughout history of being a source of therapeutic help, but the science is the science and we have to be respectful of the clinical trials, however heartbreaking the news is. We have massively downgraded our expectations. There is hope that convalescent plasma could be used in primary care in a very early intervention, but there are problems with the delivery of that medicine and primary care is not in great shape at the moment to be plugging blood into people just because they show some symptoms of Covid. We are continuing our collection until the last clinical trials in primary care are finalised, but I am afraid to say that our expectations in that area are much less than they were a few weeks ago.

**Baroness Massey of Darwen (Lab) [V]:** My Lords, the Joint Committee on Human Rights has expressed concern about the lack of clarity in the rules for visiting care homes and the impact on the right to family life. Who must be vaccinated in a care home before relatives can visit? Is it all residents and all staff? If so, does that not seem unrealistic?

**Lord Bethell (Con):** My Lords, I have huge sympathy with those looking at the human rights of those who cannot visit care homes. We have taken a huge hit to our civil liberties in our fight against this pandemic; no one can be under any illusion about that. However, I must say that the noble Baroness is wrong to hope that the vaccination gives any short-term hope that this will be changed. At the moment we are still living in a world where not enough people are vaccinated in order to stop the transmission through society, and where the rules on the transmissibility of the disease by those who are vaccinated have not been fully clarified. Therefore, even those who have been vaccinated should be staying at home.

**Lord Craig of Radley (CB) [V]:** My Lords, the Secretary of State rightly led his Statement with praise, mentioning the NHS and the many who have contributed to the successful jab results so far. However, he did not happen to mention the contribution made by members of the Armed Forces. Can the Minister say how many service men and women have been tasked with supporting this programme, and will the Treasury require the normal interdepartmental contribution to the defence budget to meet these military aid efforts?

**Lord Bethell (Con):** My Lords, I do not have the precise figures that the noble Lord asks for at my fingertips. All I know is that the armed services have performed an enormously important role in the deployment of the vaccine. Their logistical expertise and hands-on implementation of the jabs themselves have been invaluable. But, without making too much of it, this really has been an NHS-led achievement. It has been the NHS at its best, and I pay tribute to those in social care and on the front line of the NHS who have led this remarkable deployment.

**The Deputy Speaker (Lord Alderdice) (LD):** I regret that we have not been able to call everyone on the list but we have now come to the end of the 30 minutes allocated to Back-Bench questions. I shall give a few seconds for Members and Ministers to change around before we continue.

## National Security and Investment Bill

### Second Reading

2.13 pm

Moved by **Lord Callanan**

That the Bill be now read a second time.

**The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con):** My Lords, this Bill represents a major upgrade to the Government's powers to screen certain acquisitions on national security grounds. Through the new investment security unit within my department, the new regime provided for by the Bill will act as a vital new tool in the Government's armoury to protect national security in a rapidly changing world. The UK's current powers to intervene when mergers or acquisitions pose national security threats date from the Enterprise Act 2002. Apart from some limited exceptions, businesses must have a UK turnover of £70 million or meet a share-of-supply test for government intervention.

The world is of course a very different place now compared to when the Enterprise Act received Royal Assent in November 2002. When it comes to investment, we are seeing novel means to undermine the UK's national security that go beyond traditional mergers and acquisitions and the reach of our current powers. The case for action in this area could therefore not be clearer.

The Government have carefully considered these reforms over time. We first published a Green Paper in October 2017, followed by a White Paper in July 2018. We have further considered what powers are necessary to reflect the modern economic and investment landscape in the UK. The Bill before us today is the culmination of all that work.

However, none of the provisions in the Bill change the Government's position when it comes to foreign investment into the UK. Simply put, the UK economy thrives as a result of foreign direct investment. Since 2010-11 over 600,000 new jobs have been created thanks to more than 16,000 foreign direct investment projects. Inward investment stimulates economic growth in every part of our United Kingdom. In 2019-20 over 39,000 jobs were created in England thanks to FDI projects, with over 26,000 over those jobs coming outside London.

We have designed the regime with business in mind. For the first time, timelines for assessments will be set out in law, not decided by the Government on a case-by-case basis. This will give businesses certainty about the length of the assessments that they are subject to, and the Government will be able to revisit decisions only in exceptional circumstances.

The Bill brings our approach into line with many of our closest allies, including the United States, Canada,

Australia, France and Germany, but it does not represent any change in our appetite for investment coming into this country from overseas. I will now go through some of its main provisions. Chapter 1 of Part 1 of the Bill provides for a “call-in” power that the Secretary of State will be able to exercise if he reasonably suspects that a trigger event has taken or may take place that could give rise to a risk to national security. Any decision to use that call-in power could follow the receipt of a notification from parties, or could be a proactive choice on the part of the Secretary of State if an unnotified acquisition meets the relevant criteria.

The call-in power must be exercised within six months of the Secretary of State becoming aware of an acquisition, and within five years if he was not made aware of it. However, the five-year limit does not apply to acquisitions subject to mandatory notification. The scope of the call-in power applies to trigger events taking place from 12 November 2020—that is, the day following the Bill’s First Reading in the other place. This is to ensure that no acquisition can be accelerated to avoid scrutiny while the Bill is making its way through Parliament.

Before the call-in power can be used, the Secretary of State must lay a Statement before Parliament setting out how he expects to exercise the power. The Secretary of State published a draft of such a Statement when the Bill was introduced in the other place. I must be clear to the House that the criteria for use of the call-in power are deliberately tightly drawn on the grounds of national security, and the Government have no intention to widen this to introduce any further “public interest” criteria.

Chapter 2 of Part 1 sets out the trigger events that are subject to the scope of the call-in power. There are broadly two types of trigger events: first, the acquisition of control over entities such as companies, limited liability partnerships and trusts; and, secondly, the acquisition of control over assets, including land and intellectual property.

In respect of entities, the Bill sets out situations where the acquisition of certain levels of shares or votes constitute trigger events. I will not set out the individual thresholds to the House now, but broadly speaking they correspond to the ability of parties to pass or block types of company resolution. The Bill also retains the concept of “material influence” over an entity, as used in the Enterprise Act 2002, as a trigger event for the purposes of the Bill.

When it comes to assets, trigger events occur when parties are able to use a qualifying asset or to direct or control how it is used. Chapter 2 also sets out instances where notifying the Secretary of State of some acquisitions in certain sectors is mandatory. Again, I will not explore each one in detail, but the Government have been careful to ensure that only those scenarios where parties can reasonably self-assess whether their acquisition qualifies are captured.

Parties involved in acquisitions that do not meet the criteria for mandatory notification, but which believe that they could pose a national security risk, will be encouraged to submit a voluntary notification to the Government. The Secretary of State will need to take a decision on whether to call in an acquisition for a

full national security assessment within 30 working days of accepting a notification, or instead let it proceed. Once he has taken this decision, he cannot revisit it unless false or misleading information has been provided.

To ensure that mandatory notification continues to work as envisaged in the future, the Government propose taking a power to be able to update the situations where notification is mandatory. The power would also allow the Government to exempt certain types of investor from mandatory notification requirements.

In terms of the sectors where some acquisitions will be subject to mandatory notification, the former Secretary of State published a consultation alongside the Bill introduction on the statutory definitions of the proposed 17 sectors. That consultation closed on 6 January of this year. We have had a good number of responses and I thank all of those who took the time to provide valuable insights. We are now working hard to respond to that consultation and to bring forward draft regulations for consideration as the Bill goes through this House.

I would like to stay with mandatory notification for a minute or two longer. Chapters 3 and 4 of Part 1 set out the mechanics of mandatory notification and the consequences of proceeding with a notifiable acquisition without clearance from the Secretary of State. Put simply, if parties proceed with such an acquisition, it has no effect in law. The Government recognise that this approach represents a harsh deterrent to parties that do not comply, willingly or otherwise. I will make just two points on this. First, it is vital for our national security that parties are strongly disincentivised from trying to avoid scrutiny by this regime. This is even more pressing in the sectors of the economy where the notification of certain acquisitions is mandatory. Secondly, affected parties will have recourse to apply to the Secretary of State for retrospective validation of such acquisitions, as set out in Clause 16.

Clause 15 also obliges the Secretary of State to either call in a non-notified mandatory acquisition or retrospectively validate it once he becomes aware of it, if no national security risks arise. Clause 17 obliges him to retrospectively validate a non-notified acquisition if it is called in and subsequently cleared to proceed. The Secretary of State cannot, in other words, simply allow an acquisition to remain void once he becomes aware of it: he must take action, either to grant clearance and retrospectively validate it, or impose remedies. It has to be this way around: that is to say that non-notified acquisitions should be able to be retrospectively validated, rather than retrospectively invalidated.

The remainder of Part 1 provides for a voluntary notification mechanism whereby parties can formally submit a notification to Government. As with mandatory notification, once the Secretary of State has taken a decision to let an acquisition proceed, he cannot revisit that decision unless false or misleading information has been provided. The Government are committed to giving parties clarity when it comes to this regime and voluntary notification is a key part of that. The Bill also provides for information-gathering powers for the Secretary of State to be able to come to fully informed decisions. There are also safeguards on the use and disclosure of such information.

[LORD CALLANAN]

I turn to Part 2, which provides for the assessment process and any remedies following a call-in. The Bill provides for an initial assessment period of 30 working days once a call-in notice has been given, with an additional period of 45 working days. A further voluntary period is possible if certain criteria are met. I believe this represents a significant improvement on the current process under the Enterprise Act 2002, whereby the Secretary of State sets the assessment timetable on a case-by-case basis. For the first time, timelines for assessment will be set out in statute so that investors can build them into their own plans.

In the course of the assessment period, the Secretary of State may wish to impose interim orders to mitigate any national security risks that could arise as he undertakes this investigation. Such orders could be imposed, for example, to stop or prevent parties doing certain things that they would normally do prior to completing an acquisition, such as exchanging sensitive information. At the end of the assessment period, the Secretary of State must either give a final notification to allow the acquisition to proceed, or a final order if he believes that national security risks could arise as a result of the acquisition. All orders must be kept under review and parties are free to request that they are varied or revoked.

The Secretary of State will be supported in making decisions by the investment security unit which, as I said earlier, is being set up within my department. This new unit will be fully resourced to manage the administrative process for screening notifications and undertaking national security assessments. It will draw on expertise from across government and from the security services. If noble Lords permit, I will go through the rest of the Bill a bit more swiftly as I know there are many who wish to speak in this important debate.

Part 3 provides for a range of offences, along with associated criminal and civil sanctions, although I expect criminal cases in relation to offences committed under the regime to be exceptionally rare. Parties will, of course, have recourse to judicial review in relation to certain decisions made under the regime. Parts 4 and 5 of the Bill contain a number of miscellaneous provisions. Clauses 54 to 56 provide for smooth and timely information sharing when relevant between the Government and overseas public authorities, HMRC and the CMA. These are important clauses to ensure that time is not lost to administrative red tape and that information is appropriately handled.

Clause 61 provides for an annual report to Parliament, which will provide details of the number of notifications received, the number of call-in notices given and the sectors of the economy where they were served, among others. I will return finally to the fundamentals of the Bill before us. It is imperative for any Government to have the tools they need to protect national security in what is a rapidly changing world. This Bill will keep the British people safe. I beg to move.

2.26 pm

**Baroness Hayter of Kentish Town (Lab):** I thank the Minister for introducing the Bill. He will be pleased to know that, as he will have gathered from its passage through the Commons, the Opposition are fully supportive

—we might even say “at last”. We will, however, be wanting to make a few changes to ensure that it works even better than the Government envisage.

Today’s debate, not unusually for your Lordships’ House, will bring together an experienced group of speakers with expertise in industry, defence and security. I particularly look forward to the maiden speech of my noble friend Lord Woodley, who will speak from his own knowledge of the field. Some of his former trade union members, whom he represented, worked in defence sectors and thus played their role in the defence of the realm.

We hardly need to repeat that national security is the number one priority for any Government. We welcome the changes the Bill makes to ensure that investment, whether in companies, land, assets or know-how, never jeopardises our security. Our only surprise, as my honourable friend Chi Onwurah pointed out in the Commons, was that the impact assessment

“regrets that national security is an area of market failure requiring that the Government do something about it.”

As she said about that quite astonishing claim:

“National security is not a private concern first and a Government afterthought second. National security is the first reason for Government. It is not undersupplied by the market; it is outside the market altogether.” —[*Official Report, Commons, 20/1/21; col. 998*]

Putting that to one side, we welcome the new and updated regime for intervening in business transactions that might raise national security concerns. We applaud both the requirement for automatic pre-acquisition referrals in some areas, as well as a voluntary notification system and the ability to call in acquisitions of sensitive entities and assets where it is thought they need a national security assessment.

I do, however, wonder whether sufficient thought has been given not just to tangible or IP assets but to the brain power which is vital to dealing with the security threats of today. It is not simply a matter of retaining domestic control over key assets, but also of ensuring that we grow and nurture the skill sets needed for this rapidly changing technology, where we need ability and domestic capability here in the UK. Could the Minister reflect on this when he comes to reply? Could he also comment on whether crucial national infrastructure is likely to be covered in the automatic notification part?

The Bill as it stands should be capable, subject to some issues over capacity which my noble friend Lord Grantchester will address when he winds, of protecting vital security interests. Our questions are twofold. First, they are about the security capability and cross-departmental working within BEIS. Secondly, they are about parliamentary scrutiny, which appears woefully thin.

Much of the business department’s work is to foster and promote inward investment, for the best of reasons. The UK has twice the direct foreign investment of France or Germany. That is good for our economy but potentially risky for security. Because of that dual responsibility, it is surely challenging to give the business department almost the opposite role to that of a cheerleader for investment: to check and sometimes prevent such investment. Indeed, it almost looks like a

potential case of moral hazard. Can the Minister confirm that, at least, there will be strict Chinese walls within the department?

Perhaps even more fundamentally, it is hard to see how the Minister's department can be close enough to departments dealing with land use, defence, supply chains, higher education, foreign relations, transport, science and medicine to be fully aware of what is happening across those areas. Traditionally it has been the Cabinet Office that handles such significant cross-departmental or multiagency working.

Having looked carefully at the draft Statement setting out the three types of risk to be considered by the Business Secretary—the target risk, a trigger event, and the acquirer risk, according to the Minister—it is clear that while judgments as to degree of ownership or control of a business fall within his department's expertise, some of the other security judgments listed, such as the hostility of a particular state or knowledge of our security services, are not among those traditionally made by business specialists. The backgrounds and expertise of the advising personnel will need to be drawn from across other departments, and many of them will require high-grade security clearance. The decisions taken will be serious and could impact on our international and diplomatic relations, including with close allies.

I recognise that this remit has been with the business department to date, but the increased remit of the Bill—the sheer number of cases and their increased sensitivity—makes the future quite different from what was correct in 2002. Is the Minister therefore confident that the passing on of intelligence and advice from around Whitehall will work smoothly in the new set-up?

Allied to the nature of this work is my second question, which is about whether the Bill allows for adequate parliamentary scrutiny of the decisions which will fall to the business department. A strong case was made in the Commons for the Intelligence and Security Committee to be given an explicit role in scrutinising the working of the Bill; indeed, its chair spelled out very clearly how it was well within the committee's terms of reference to handle it.

The response of the Minister in the Commons was rather disappointing, to say the least. He said that the Intelligence and Security Committee could ask for extra information or invite the Minister to attend if it wanted. However, as a Nobel laureate commented

“they do not know what they do not know.”

Indeed: the committee will not know what it has not been told until and unless it sees a report. The Intelligence and Security Committee, with its security clearance, would be able to do a proper job on behalf of Parliament in seeing how these powers are—or indeed are not—being used.

We need therefore to amend the Bill, along the lines suggested in the Commons, to ensure that reports are made to the Intelligence and Security Committee. Perhaps the Minister could reflect on whether this would be best achieved via a government amendment.

We welcome the Bill, which, as I said, is in some ways sorely overdue. We will scrutinise it seriously and call for changes to be made, particularly in relation to

parliamentary scrutiny and ensuring that the new unit has the skill set, working methods and resources to ensure that its decisions are timely, cross-departmental and forward-looking, so that it safeguards our future security. I look forward to working with the Minister as we take the Bill through the House.

2.34 pm

**Lord Clement-Jones (LD) [V]:** I too thank the Minister for his comprehensive introduction. I declare an interest as a member of the advisory board of the corporate finance faculty of the ICAEW, whose members comprise business owners, advisers to business and investors.

I believe that there will be little argument during the Bill's passage about the principle involved of protecting national security. There will, however, be considerable debate about its scope and practical operation. Foreign investment is crucial to UK businesses and the economy. On these Benches we accept that it is important to put in place legislation to protect against national security risks posed by such investment. But this is a major change from previous provisions under the Enterprise Act, and must be done in a way that is workable and does not deter productive investment.

The Government have argued that it is necessary to give the Secretary of State greater powers to scrutinise investment in the UK, considering the technological, economic and geopolitical changes that have taken place over the past 20 years. However, the scope of the Bill and of the Secretary of State's powers risk being far too broad, while lacking any industrial strategy to frame them or any clear geopolitical focus. Indeed, there is no definition of what constitutes national security.

How too will the Bill fit within the integrated review? Ministers have made it clear that the Bill is about the protection of national security, not national interest—but where does national security end and economic or commercial security, or critical infrastructure, begin? Will there be overlap between regulators, such as between the ISU and the CMA?

There is also the retrospectivity, which goes back to November and could already be having a chilling effect on inward investment and causing uncertainty in the investment community, not least in pension funds. For such funds the investment environment is crucial, and as a university chair I am only too well aware of the concerns expressed by USS. As the largest private pension fund in the country, its concerns should be taken very seriously. Arguably even more importantly, as the Russell Group has pointed out, the Bill could have a potentially damaging impact on university/business collaborations.

Many of my noble friends will focus on these issues in today's debate. The key elements needed to achieve the balance required of the new regime will be achieved by pre-empting and mitigating the inevitable risks for the market by setting out a clearly defined scope. The Government have engaged in a long—some would say leisurely—process of Green Paper and White Paper consultation leading up to this Bill over the past three and a half years, but there is still a great deal of uncertainty around how it will work in practice.

The current sectors, as set out in the consultation, are incredibly broad. For instance, in respect of AI, the development of which I am reasonably familiar

[LORD CLEMENT-JONES]

with, the definition is so wide that it captures any company developing any kind of application involving machine learning or deep neural networks.

We look forward to seeing the outcome of the promised consultation during the passage of the Bill, but we need to considerably narrow the width of the sectors captured. This in itself would not resolve the fact that many, if not most, technologies have both civilian and security uses, which potentially opens every deal to challenge. Taking dual-use biotechnologies as an example, how do we manage national security concerns without stifling innovation?

We also need to question the low thresholds adopted for market share and turnover, and the generous time given to the Secretary of State to intervene—especially given the Secretary of State’s quasi-judicial powers.

We need to reduce uncertainty to a minimum. Even a mandatory notification system for transactions means instituting an open pre-consultation process with market participants. In particular, it is essential, as the ICAEW has emphasised throughout, that the investment security unit publishes meaningful market guidance notes akin to the practice notes published alongside, but not as part of, the takeover code.

The Bill includes the requirement for the ISU to publish an annual report, but formal guidance will be much more useful, and, as they say, it is an important way of dealing with asymmetry of information among the investment and advisory community. A particularly good example will be in respect of trigger events that involve securing influence or control over qualifying intangible assets, such as know-how and intellectual property. It is possible to gain access to intellectual property through means other than ownership, so the question is: how might those intangible assets be applied in ways that could prejudice our national security in some way? The new unit may initially assess that on a case-by-case basis, but it will need to quickly come to establish a basis of precedent for its decisions. Along with the corporate finance community, I believe that the requirement for market guidance notes should be incorporated in the Bill.

All this means properly resourcing the ISU, which will need to determine which of some 1,000 to 1,800 transactions are to be analysed: 70 to 95, it seems, although many think this an underestimate. This compares to just 12 acquisitions reviewed under the Enterprise Act’s national security provisions since 2002. Otherwise, this will result in a huge number of mandatory notifications, which will overwhelm the new unit. The bottom line is that we need to make sure that a proportionate and last-resort approach is applied to government scrutiny of, and intervention in, these transactions.

In addition, given the low turnover thresholds involved—I have noted the Commons debate—many of us are concerned about the impact on SMEs. The impact assessment suggests that “80% of transactions” in the scope of mandatory notification under the Bill would involve SMEs. However, the assessment failed to consider the costs faced by the acquired companies or the impact on funding for start-ups.

However much we try to circumscribe the Bill, it will not always be possible to reduce uncertainty and risk. It will depend on the culture of the ISU to a great extent as well, so, when considering the Bill, we should heed the warning of John Fingleton, former chief executive of the Office of Fair Trading, in his recent article in the *Financial Times*. We must not let this Bill become an investment killer; it needs to be very clearly targeted and proportionate. I look forward to the debate and the Minister’s reply.

2.42 pm

**Baroness Noakes (Con):** I remind the House of my interests as recorded in the register.

I am instinctively against all forms of protectionism, including those that apply to inward investment. Our current minimalist framework, set out in the Enterprise Act 2002, with a few recent tweaks, has served us well. As my noble friend the Minister has reminded us, the UK has benefited considerably from inward investment: UK companies with foreign direct investment links accounted for over 30% of UK employment and 40% of GVA, according to the latest detailed analysis by the ONS. Our investment partners, led by the US, are very largely from similar open democracies.

However, I agree with the noble Baroness, Lady Hayter, that the security of our nation is the top priority for any Government, and that is why this Bill has my support. It is our duty as Parliament to ensure that the Government have the powers they need to keep us secure.

Most investments are undertaken with a sound commercial logic, but we know that not all investment is driven this way. In particular, it is right to question the investment motives of organisations within states that do not share our values—or, to put it more directly, assets that are important for our security should not fall under the influence of China or Russia—and a few other states, although they do not on the whole have the resources to make significant acquisitions. I support the Government having powers to achieve that.

At the same time, we must ensure that the Government’s powers are proportionate to the threats and that they do not have unintended consequences. This is especially important in the context of the major economic renewal that is necessary as we deal with the pain inflicted on our economy by the Government’s lockdown policies.

I have some reservations about the Bill, which I look forward to exploring further in Committee. The first—which has been mentioned—is about whether the wording of the Bill gives the Government a secure armoury. It is firmly framed in terms of “national security”, but that is not defined in it, and there are no powers in it to do so. I believe that this is too important to be left to the courts. Instead, the Secretary of State will make a Statement about how he will use the power to call in transactions, including the sectors to be targeted, but Parliament’s involvement is only via the negative procedure. That feels weak.

I also have a concern that the Government’s current view of “national security” is insufficiently comprehensive. The Government are consulting on 17 sectors on which they plan to focus the new powers. While that sounds like a lot, the list does not coincide with the separate list of critical national infrastructure, drawn up by the



Government's Centre for the Protection of National Infrastructure. In particular, I cite water and financial services: two quick ways to bring the country grinding to a halt are a lack of clean water supplies and the failure of payment systems. Why would the Government not want to be notified about potential takeovers of major players in these industry sectors as well?

I am concerned about the Bill's impact on investment in both large and small companies—this has already been mentioned. I fear that the necessary power to block transactions that are undesirable on national security grounds could have a traumatic impact on investment transactions more broadly, and indeed I fear that the UK may lose its reputation as a good place to invest.

It will obviously be necessary for all the mandatory notifications to be handled efficiently, but the volumes will be critical to this. The impact statement has some very wide ranges in terms of the number of transactions that need to be handled, and the Government have very little idea about the volumes of asset rather than share-based transactions, which will come within the ambit of the Bill.

I am absolutely sure that, if there is any possibility of a transaction being within the scope of the legislation, lawyers will recommend notification; the penalties involved make this a no-brainer. If you add to that precautionary voluntary notifications, there could be very large volumes of notifications and they will not be confined to the early days, as people get familiar with the topic, because the risks to transactions will remain throughout the life of this legislation. We will need to explore in Committee how best to ensure that the system is not overwhelmed, with resultant harm to investment activity generally.

The core purpose of this Bill is good, and that is why I support it, but it will need careful scrutiny in Committee to ensure that the balance is right between protecting the UK's security and growing the economy.

2.48 pm

**Viscount Waverley (CB):** My Lords, business investment will be central to shaping our competitive and dynamic economy. I am attracted to this Bill because it is a further building block in defining the country we are becoming in a new-look UK. After passing through the parliamentary labyrinth, the Bill should ensure that the UK remains one of the world's top destinations for foreign investment, which is achieved by maximising its attractiveness for investment, while safeguarding our national security. The Government are setting out our stall with clear messaging of being a force for good, and they are setting an example to the world that we are not just open for business but mindful of standards and accountability.

Care should be taken, however, that safeguards do not unintentionally hamper UK competitiveness or limit investment that does not pose a national security risk. I concur with what the noble Lord, Lord Clement-Jones, said. The mandatory reporting regime for transactions should be narrow and based on evidence of real risk, and should not result in unintended consequences.

The Government's call-in power under the Bill will be proportionate, sufficient to address any residual concerns that could arise in relation to transactions involving active or passive infrastructure. There are

challenges, however, regarding the call-in power, which provides for the Secretary of State to call in transactions triggered by a person gaining control of a qualifying entity or qualifying asset that is considered to give rise to a national security risk. A significant extraterritorial impact also arises from the drafting of Clause 7(6), as these call-in powers could be construed to apply to every export deal from the UK to overseas. Understandably, UK exporters and overseas customers will want to mitigate the risk of call-in by the UK Government, so removing ambiguity from the scope of the call-in power is important—all the more reason to ensure that extraterritorial reach does not become an inadvertent consequence of any ambiguity in the drafting and interpretation.

As things stand, the likelihood is that UK exporters, particularly in sensitive sectors such as defence or military dual-use, will err on the side of caution and seek additional clearances from BEIS for such transactions in addition to making standard UK export licence applications. This interpretation of the Bill could lead, in practice, to a significant annual increase in the volume of voluntary notifications as the means of mitigating the risk of, and uncertainty over, future call-in on national security grounds. I venture, therefore, the need for a targeted amendment to this primary legislation, and for statutory guidance from BEIS, to remove uncertainty.

If I might express this differently: our proposed amendment to the primary legislation could be to the effect that where qualifying assets are authorised for export through the Export Control Act, a transaction or acquisition is automatically exempt from call-in and/or the voluntary notification regime.

Moving on to intellectual property issues, IP licences and assignments are a fundamental offering in business transactions and are inextricably linked with technology offerings both within and outside the UK. The UK export control regime already serves as a robust former national security screening regime for IP assets. Adding a parallel or second national security review under this NSI regime seems unnecessary. Would the Minister be minded to clarify the interplay between these two regimes? If this is the intention behind the Bill, the department will need to publish clear guidance to explain this extraterritorial reach and the interplay. This could bring technology platforms, sales, in-service support contracts with existing foreign customers and in-country technology transfers of capability—whether under Government-to-Government arrangements or in direct sales to a foreign Government or government-controlled entity—into the scope for call-in by the Secretary of State. Such proposals and resulting contracts will be subject to, and conditional on, stringent UK export control licensing processes in addition to any applicable pre-clearances through the MoD Form 680 process, which requires companies to obtain approval from the MoD to release information or equipment classified “official sensitive” and above to foreign entities.

Clauses 7 and 9 will also catch IP offerings that form part of offset transactions related to prime contracts with overseas Governments. This brings licences, assignments and transfers of IP into scope. Clause 7 defines qualifying assets as including

“ideas, information or techniques which have industrial, commercial or other economic value”.

[VISCOUNT WAVERLEY]

Examples include

“trade secrets ... databases ... source code ... algorithms ... formulae”

and “designs”. Clause 7(6) further provides that IP assets are in scope only if they are used

“in connection with ... activities carried on in the United Kingdom, or ... the supply of goods or services to persons in the United Kingdom.”

Clause 9 states that

“a person gains control of a qualifying asset if the person acquires a right or interest in, or in relation to, the asset and as a result the person is able ... to use the asset, or use it to a greater extent than prior to the acquisition, or ... to direct or control how the asset is used, or direct or control how it is used to a greater extent than prior to the acquisition.”

Would the Minister comment on these aspects in his response or, at least, commit to a considered response in writing?

In conclusion, the Bill is a good starter for 10.

2.55 pm

**The Lord Bishop of St Albans:** My Lords, I too welcome the Bill and congratulate Her Majesty's Government on bringing it forward.

At the beginning of each day this House sits, our prayers recognise the delicate balancing act we have to perform. On the one hand, our precious democracy depends on the public wealth, peace and tranquillity of the realm. It is this social capital, this trust, this commitment to the common good, which sets people free to go about their business and allows for innovation, trade and wealth creation. This is fundamental to all we do. On the other hand, our prayers acknowledge that sometimes malign forces at work will look for opportunities to take advantage of us, and we cannot ignore, as the prayers put it, the enemies of the state, which we pray will be vanquished and overcome.

This balancing act has to be maintained, as we have left the European Union and are seeking to establish the role we want to play in the world—the global village. We know that there is strength in collaboration and in sharing information and technology for the sake of the whole world. We want to maximise this, as has been mentioned, in our universities in particular, which are one of our huge success stories. How can we set these groups free to capitalise on all the opportunities ahead? The development of the Covid-19 vaccines is a classic example of the benefits we get when we work collaboratively across the world. Nevertheless, we have to make sure emerging technologies and science are harnessed for the common good and not exploited for the military, economic or political ends of those seeking to undermine what is, nowadays, a fragile democracy, as we see threats in various parts of the globe.

In the past few days, Members of this House have been struggling with questions of how we use our legislative clout and moral leadership as we stand up and defend human rights. I take the Minister's assurance that the Bill will be tightly defined. Nevertheless, we are going to be operating in a world where horrific stories of the persecution of the Uighurs, the Rohingyas and Christian minorities in places such as China and Myanmar immediately come to mind, which is why I hope, as we work on the details of the Bill, we will come back to the wider context in which we are set.

Some nations are not slow to use their economic power to further their own aims. Think, for example, of the Chinese increase in tariffs on Australian wines last November. We are aware that previous Governments supported Chinese foreign investment, potentially leaving critical national infrastructure under a regime that seems to be diverging further and further from our values and everything I hope we will stand for in the future.

As the Bill works its way through its various stages in this House, I know a number of us will be pushing for clarification in several areas. As the noble Lord, Lord Clement-Jones, noted, there is a need for more careful definition of what we mean by “national security” and which areas are simply “national interest”. We need to do that so that we do not hinder people. There is a danger that the notification process, as others have put far more eloquently than I can, could introduce more red tape and delay at a time when we need our entrepreneurs, especially SMEs, to be agile, nimble and exploiting opportunities more widely.

Despite the promise of an annual report, we need to look at the extent to which Parliament will be able to scrutinise what is going on. We know that in periods of transition, as we have seen in our ports and at customs, we can sometimes be overwhelmed suddenly and get backlogs that harm us. There are vital issues here about making sure there are adequate resources to help this scrutiny go forward.

I will close by saying that I hope that the Bill ushers in a larger conversation about strategic industries within the UK. Perhaps one of the enduring lessons of the pandemic is that when a global crisis comes along, solidarity can quickly go out of the window, as each nation looks after their own. Free trade is important and can bring prosperity but it can leave poorer nations vulnerable. It is important that, should another large crisis occur in the future, we are not only resilient and able to avoid shocks; we also need to think about wider areas such as food security, medicines and access to resources in order to safeguard strategic industries and ensure that we are prepared for what feels like an increasingly vulnerable world that we are living in. I look forward to working on the Bill with others in this House.

3.01 pm

**Lord Reid of Cardowan (Lab) [V]:** My Lords, I thank the Minister for his introduction and remind the House of my interests, as registered. Thus far, the Bill has enjoyed qualified support from all sides of both Houses during its passage through Parliament. However, I confess some concerns about its scope. For instance, I share the concern expressed by the noble Baroness, Lady Noakes, that essential elements of our critical national infrastructure appear to be inexplicably missing from the coverage of the Bill.

However, today I want to focus on one general point that I believe may prove potentially dangerous for our economic well-being and, ultimately, our national security. I refer to the Secretary of State's assertion that the Bill strikes the right balance between encouraging inward investment and protecting national security. That remains an assertion since, inevitably, at present it remains untested and unproven. It can and will be affirmed only by successful implementation.

Colleagues from all Benches have offered several amendments intended to ensure a successful outcome of that balance: all thus far have been defeated. I say to the Government that in due course they may find that their victories on this are proved pyrrhic, so I hope that they will be more open-minded to some of these constructive amendments in the course of our following debates. There are some areas where we can agree. We can surely agree that in a networked world it has become clear that a qualifying entity or asset of concern can no longer be defined just by the size of the venture, its market share or its direct involvement in the defence sector. It is right also that the threshold for concern, the “trigger event”, is changed and that consideration extends for a five-year window.

Yet the threshold for change is no easy matter. Colleagues on all Benches are right to raise questions about basic definitions—not least for “national security”—which made filling the scrutiny gap helpful rather than a hindrance to the intended legislative outcomes. We should proceed with care. Now is not the time for the United Kingdom to hamper productivity gains.

Vaccine nationalism has given us a taste of how counterproductive any isolationism can be. Likewise, many of our most severe national security challenges are global. If “build back better” and “levelling up” are to support a “global Britain”—all slogans at the forefront of the Government’s mind—then imposing disproportionate and unaffordable costs on the wellsprings of productivity will be most unwise. Large organisations may absorb these transaction costs, but networks of small and medium-sized enterprises, not to mention start-ups trying to scale up and, above all, the universities from which these arise, will struggle to absorb such transaction costs.

It is not so much the land or tangible assets that are the problem. It is that amorphous third category of qualifying asset—ideas. Those will be the hard cases. If we are wise, we should track the implications of the Bill back to our universities. The evidence over decades is clear. It is not financiers, nor the entrepreneurial state per se that catalyses innovation-driven productivity—it is our universities. You have only to look at the genealogy of our biggest unicorns to see how much they owe to universities, both directly and with ideas created from research, and in enabling start-ups to scale up with highly educated workers. Ultimately, our security rests on a productive economy. Everything flows from that, and that has to be innovation driven.

The Government’s consultation listed 17 sectors, 15 of which covered almost all growth areas in which SMEs, start-ups and universities catalyse the uptake of innovation. Asking them to master the tracking of dual-use, beneficial ownership or agents of influence seeking to take control is a tall order indeed. If our future productivity is not to experience a severe chill, the sector-specific guidance offered by BEIS’s new investment security unit will have to come with much support from competent staff and adequate resourcing to support SMEs and other organisations or networks unable to fully or adequately provide them themselves. It would be wise too, as several noble Lords have mentioned, for the unit to be properly scrutinised.

If these things are not done, the potential for harm may be hard to overestimate, making a nonsense of the assertion that a proper balance between national security and productivity has been struck. In short, we cannot ignore the evolving security risks and the Government are right to address them in this Bill, but we need to be able to handle them in a pragmatic and proportionate way. Otherwise, in the long run, that would be a real threat to our national security.

3.07 pm

**Lord McNally (LD) [V]:** My Lords, as ever, some very wise words from the noble Lord, Lord Reid, with his vast experience. Of course—[*Inaudible.*]

**Baroness Scott of Bybrook (Con):** I am afraid we cannot hear the noble Lord. Can he get closer to his microphone? We may have to come back to him.

**Lord McNally (LD) [V]:** Is that close enough? Can you hear me now?

**Baroness Scott of Bybrook (Con):** Yes that is much better. Can the noble Lord start again, as we could not hear?

**Lord McNally (LD) [V]:** Yes, so long as I get the time. My Lords—[*Inaudible.*]

**Baroness Scott of Bybrook (Con):** The noble Lord needs to point his head upwards. As soon as he speaks we cannot hear him again.

**Lord McNally (LD) [V]:** I will try again. Any Bill with the phrase “national security”—[*Inaudible.*]

**Baroness Scott of Bybrook (Con):** I am really sorry but we cannot hear the noble Lord. We will ask the broadcasters to check the connection and we will come back to him.

**The Deputy Speaker (Baroness Henig) (Lab):** I call the next speaker, the noble Lord, Lord Leigh of Hurley.

3.09 pm

**Lord Leigh of Hurley (Con) [V]:** My Lords, I really do have to declare some interests in the context of this Bill. I am the senior partner of Cavendish Corporate Finance, which specialises in advising owners of SMEs on their exit, typically by trade sale or to private equity. I started Cavendish some 30 years ago, and mergers and acquisitions has been my line of work for some 35 years. My business has grown, as nowadays entrepreneurs frequently start a business specifically to grow it and then sell it after a few years, to let another organisation take over with different skill sets as the business outgrows its original founders. In days gone by, family businesses were just that—kept in families for generations. Although I have sold an eighth-generation family business, that is very unusual. Years ago, selling out used to have negative connotations; today, it is seen as mark of success and to be applauded. As a result, SMEs have flourished in the UK, accounting for over 95% of enterprises and some two-thirds of employment.

[LORD LEIGH OF HURLEY]

The UK is seen as a world leader in facilitating new businesses to start up and grow. Much has facilitated this explosion in entrepreneurial flair. Recent Governments have made it easy to start a business, and the combination of relatively low regulation, easy access to finance, and a can-do attitude—unique in Europe—has prevailed. I only hope that the Government do not bring it all to a crashing halt by increasing capital gains tax rates in the Budget next month, but that is not a subject for today.

What is for today is to recognise that FDI here has been a tremendous success. We are consistently second or third in the world, and have long been the first in Europe—and those investors can choose to invest anywhere in the world. When they are asked why, one reason cited is our high standing in the World Bank index of ease of doing business; that includes our flexibility in the labour market, which is second to none. I am looking forward to the maiden speech of the noble Lord, Lord Woodley, who may address that subject.

Another really important aspect, and top of many investors' lists, has been our rule of law. Investors are hugely attracted to the unique UK legal system, and one of its key features is certainty. We may be about to lose that key plus point.

Many speakers here will, like my noble friend Lady Noakes and me, instinctively want the Government to push for economic growth through market freedom, allowing business to flourish away from government interference. Indeed, I am the chairman for the Lords of the Campaign for Economic Growth. Our president is my noble friend Lord Young of Graffham—a role model for many of us—and we see the dilemma that the Government face, brought into sharp focus by the issues concerning 5G and Huawei.

Economic decisions taken for political reasons rarely lead to good results. As we see in this Bill, the definitions are hard to determine. Few companies are in one sector alone; they are in many. Large numbers of acquisitive, seemingly British companies, particularly those backed by private equity, are in fact technically owned by funds based in Guernsey. Uncertainty in investment leads to only one thing: an increase in the return demanded as compensation, so lowering the price, as a result of the risk factors, and of course lowering subsequent tax revenue.

We can readily observe overseas investors stalling transactions at the moment, just to see where this is going. Why risk investing in a UK company if, when the company becomes so successful that it attracts overseas interest, the process to sell it is hampered, and may even be barred, thus reducing its value? I say “may” even be barred, because it will not be possible to give certainty. Warm words might come from this Government, which have been rightly trusted by business, but this legislation will give less competent and less business-friendly Administrations in the future—they might occur—the power to make life difficult for investors from a particular country that they just do not want to make welcome in the UK.

A former Trade Minister told me this week that he wanted to see 10 Downing Street look at every piece of new legislation through the prism of an SME. Is it

helpful or is it unhelpful? This Bill is not helpful—or at least, aspects of it are not helpful. So I hope that BEIS, under its new excellent Secretary of State, will table some of the amendments that were discussed in the Commons, and were suggested by organisations such as the corporate finance faculty of the Institute of Chartered Accountants, of which I had at one point the honour to chair.

The proposed investment security unit may well be swamped: there are some 10,000 M&A deals every year. I cannot see how anyone could have made the estimate of up to 1,830 referrals a year—what an odd number. In any event, how can people possibly know? We need to look at really good precedent models like the Takeover Panel, whose appeals committee I served on, which gives guidance, help and advice to ensure an efficient market. Its practice notes could be emulated, and we must have a fast-track pre-clearing system, together with a big hike in the thresholds and the creation of sensible white-list exemptions to avoid a massive crunch in transactions.

We need much greater clarity on what is national security, and fast problem-resolving mechanisms, with a recognition that some industries, such as cybertech, will have real dual-use issues, whereby a small proportion of their business might be caught, thereby prejudicing their chance of attracting investment, as the exit will be hampered.

The UK has a proud reputation as an excellent place to invest and do business. The phenomenal growth of fintech in the UK did not happen by chance. Look at the people running these businesses, and look at where the money has come from. They have chosen the UK as they believe in the UK as a country with a mindset for standing back and letting business get on with generating wealth for our citizens. Let us not disappoint them.

3.15 pm

**Lord Bilimoria (CB) [V]:** My Lords, the National Security and Investment Bill has a number of provisions: a separate national security screening regime, a broadening of the range of investments in scope, a statutory requirement for parties to notify relevant transactions in the most sensitive areas of the economy, and a new process for business investors supported by a call-in power to enable the BEIS Secretary of State to assess deals that may give rise to national security risks. The Bill allows for a retrospective call-in decision for up to five years, with criminal sanctions attached, and a predictable statutory process.

The CBI, of which I am president, supports the principle of the legislation in protecting national security, which will always be a priority. However, the current drafting makes the practical application of the Bill difficult for business. It could lead to additional burden, complexity at a micro level and, potentially, an unintended deterrent to investment at a macro level.

We heard from a wide range of businesses and members who share concerns about the Bill in its current form, from technology and digital to facilities management, to pharmaceuticals, to higher education, to financial services and to defence. There is a concern for a broad subsection of the business community. For example, the Russell Group says that if reporting under

either the mandatory or voluntary regimes leads to delays or concerns from the business community over its ability to do business with universities, this could harm its members' ability to attract investment to all parts of the UK in future.

With no set *de minimis* thresholds for transactions caught by the legislation, there is a risk that a high volume of notifications will inadvertently represent relatively low-risk activity driven by a maximalist approach from legal teams and counsel. The extraterritorial nature of the provisions of the Bill means that many transactions involving target suppliers supplying goods and services outside the UK will be caught in the notification requirements. Against a backdrop of the maximalist approach in business, there is a real concern about the Government's capacity to process the projected number of notifications while the regulation is in its infancy.

According to the CFIUS annual report, 231 notices were filed with the US investment screening regime in 2019, with 113 resulting in subsequent investigation. The Government currently estimate that there will be up to 1,800 annual notifications under the regime, and there is concern that the true predicted estimates could reach up to 10,000, although the Government say that the number of transactions called in would be no more than 100. Can the Minister confirm that?

To allow for greater efficiency in the system, the UK might wish proactively to utilise the benefits of a white-list process for countries and/or companies. That could be incorporated through future trade deals if the legislation provides flexibility. However, this investment regime should not have the unintended consequence of deterring foreign investment just when the UK needs to increase its attractiveness to foreign investment, and just as we have come through the pandemic and established the UK as an independent trading nation post Brexit.

We are the second or third largest recipient of inward investment in the world. We have always been a gateway to the European Union, and we need to continue to be a gateway, including for foreign direct investment. The requirements for mandatory reporting in 17 sectors across the economy will vastly increase reporting requirements for business, damage the competitiveness of key sectors such as the tech sector, which relies on investment in start-up and scale-up, and create an impossible workload for British officials.

Companies across key sectors of the economy, from finance to universities, are also concerned that the UK regime is more onerous than its equivalents in the US, France, Germany and Australia, with more stringent thresholds for transactions and less clear guidance in areas. I ask the Government: have they carried out clear benchmarking and taken the best of all other existing regimes before coming up with our legislation now?

We should not forget the SMEs, which do not have the legal departments to wade through the complex provisions of the Bill. We want to work with business, and direct engagement with the Business Department has so far been very good. The Government have shown a willingness to consider targeted changes to the Bill, to ensure that business can help to make it a success.

I will run through a few of these changes, which could include a *de minimis*; making sanctions for transactions for mandatory filing that has not been made more workable; reducing the extra-territorial application of the call-in power; and introducing a fast-track process for less risky transactions, clarifying the time limits on the exercise of the call-in power. That could include creating checks and balances beyond the threat of judicial review, such as appraisal from an expert panel drawn from Whitehall and industry, introducing detailed guidance for investors. When qualifying assets are authorised for access for export through the UK Export Council regime, consideration should be given to exemption for the call-in. Further changes could ensure that for key sectors there is scope for the mandatory regime to be as clearly and narrowly defined as it is for those sectors that are of material interest to national security. There should be clarifications that IP provisions would not mean that companies exporting sensitive goods with *de facto* transfer of IP would not need to double report, if they had already received an export licence.

The City of London has given feedback and commented that the Bill represents a significant expansion of the UK's FDI regime, given that since the Enterprise Act intervention regime was introduced in 2002, nearly 20 years ago, there have been just 12 interventions on the basis of national security. It appears that a new regime will see a large increase in the Government's workload. Once again, the City of London said that it seems to be a much stricter regime than those brought in by other countries, including the USA, Australia, Japan and many in Europe. City sources also said that they recognise that it now sits alongside the new Office for Investment, a unit designed to attract high value and strategic FDI into the UK.

To conclude, the University of Cambridge—I declare my interest—says that it stands ready to work with the Government to protect Britain from emerging national threats by hostile foreign actors. The university understands and fully supports the dual thrust of the Bill materially to expand the Government's ability to manage risk and foreign investment on national security grounds while avoiding adversely impacting the UK's economy, global competitiveness and attractions as a forum for inward investment. However, it is concerned about the possible adverse impact of some elements of the Bill on higher education and the rest of the business sector.

3.22 pm

**Lord Woodley (Lab) (Maiden Speech):** My Lords, it is a great honour and privilege to join your Lordships' House and speak in this debate today. Turning to the subject of the Bill, I believe that critical national infrastructures should be controlled and operated in the public interest, and certainly not run for private profit or sold off to corporate investors in a way that jeopardises jobs, safety and the security of the British people.

Before I continue, I thank noble Lords on all sides of the House, all officials and staff for their very warm and hospitable welcome. I also extend sincere thanks to my two distinguished supporters, my noble friends Lord Collins and Lady Blower. I also thank

[LORD WOODLEY]

Jeremy Corbyn, for giving me the opportunity to enter this illustrious House, and Gordon Brown, for giving me the encouragement to accept a peerage.

I understand the privilege that I have been given; I also understand poverty. I was born in Wallasey on the Wirral and had a humble upbringing, with my parents fighting to put food on the table each day for me and my sisters in our two-up and two-down house, with no hot water and an outside toilet. They were often unable to pay the rent. Free school meals were a must in those days to feed us kids. Shamefully, as many in this House recognise, 60 years on, the need is as great today. On a lighter note, if I ever see prunes and custard again, I will give up the will to live.

As a merchant seaman at the age of 15, I travelled to most areas of the Far East and beyond, watching the exploitation, poverty and child abuse. The unfairness in our world, at home and abroad, had the most profound effect on me. It helped to create my moral compass and the progressive politics that have driven my life ever since. I became a workers' representative at Vauxhall Motors in Ellesmere Port, a shop steward and convener, and the last general secretary of Britain's most famous union, the Transport and General Workers' Union and a creator of Unite the Union.

Personally negotiating and working with many of the world's largest companies, CEOs and Ministers, particularly in the automotive and manufacturing industries, has been great. Yes, we had our disputes, but I spent more time working for and with companies for investment, protecting jobs and plants, than we ever did fighting each other. I have always said that I have known many good bosses, but I have never known a generous one.

While we have many good examples in the Bill we are debating, particularly those given by the noble Lord, Lord Leigh, privatisation and outsourcing have all too often become a blight of our lives, leading to the fragmentation of services, operational inefficiencies and the short-termism culture that puts the interest of shareholders before the interests of workers and the wider public. Privatisation has failed again and again. We recently witnessed this with the failure of the part privatisation at the Atomic Weapons Establishment, responsible for no less than the design, manufacture and support of warheads for the United Kingdom's nuclear weapons, which had to be brought back under direct control of the Ministry of Defence. Need I say more?

At least the Bill represents recognition from Ministers that there is an over-riding public interest in stopping essential assets from falling into the hands of nefarious interests. The general thrust of the Bill is to be welcomed, and I look forward to debating the details as it completes its passage.

3.27 pm

**Lord McNicol of West Kilbride (Lab):** It gives me great pleasure to follow my noble friend Lord Woodley's maiden speech and welcome him. While growing up, I am sure very few, if any, of our friends would have ever believed that we would end up here in your Lordships' House. I have known Tony for many years, through

my time at the GMB and his at the Transport and General Workers' Union. We all know, and we have heard, how proud Tony is of his time as a shop steward, a union officer and general secretary of TGWU, and now Unite.

However, there are a couple of interesting, even surprising, activities that he does not often shout about. He is rightly very proud of his role at Vauxhall Motors Football Club where, as chairman, he has led a committed team in developing the facilities. The club has a new all-weather pitch—a number of pitches—and a new club house. Thousands of children and young people have got involved and played on those football pitches at Ellesmere Port. Forty-seven teams compete in the league from the age of five upwards—it is a real community.

Tony has been involved in the Cuban Five or Miami Five campaign for many years. Not many of us can say that we have been involved in a prisoner swap, never mind one that involved the Pope, our Prime Minister and the US President. In late 2014, the prisoners' release and exchanges, including Jewish American prisoner Alan Gross, were all secured during the end of a 16-year campaign, and we saw for a short time a step change in the Cuban-US relationships. Tony, welcome to the House.

Turning to today's debate, I would like to focus on two issues: first, the importance of clarifying national security and, secondly, accountability and oversight. Before I do, allow me to make a few introductory remarks. Safeguarding our national security has always been critical to our nation's future, but never more so than now. I support the Bill, which strengthens the powers of the Government to intervene when corporate transactions threaten national security. However, I believe that the Bill would be strengthened by a number of amendments, which I am sure will be forthcoming from all sides of the House as it passes through. The scale and sophistication of national security threats have materially increased since the current limited screening regime was introduced by the Enterprise Act back in 2002. Importantly, the Bill follows—if not offers a little UK catch-up—similar moves by many other countries, as outlined by the Minister in his introduction.

Turning to how the Bill should clarify national security, it gives sweeping powers to the Secretary of State but does not give any statutory guidance on the meaning of national security. Surely it would be sensible to include guidance on factors that would be captured by national security, outlining references to critical national infrastructure and economic security specifically. Such guidance would also provide much needed clarity for business.

Although the Bill is aimed at all investments—not just foreign investments—foreign companies, sovereign wealth funds and other international finance vehicles seeking to invest in companies and projects could pose a particular threat, whether that is relevant to critical infrastructure, personal data or cutting-edge technologies. The decline in democratically accountable Governments is highlighted by the Democracy Index, which recently stated:

“The global score of 5.44 out of ten is the lowest recorded since the index began in 2006.”

This is a real cause for concern. Any investment, not just critical national infrastructure, should automatically raise a red flag.

As we heard earlier, Part 3 of the Bill gives the Secretary of State quasi-judicial powers by allowing them to act as the key decision-maker for all decisions under the new regime. As we have heard, BEIS has previously been a cheerleader for Huawei and others, overly open to investment and pro-market to an extent that requires meaningful checks and balances. I do not believe that the Bill as drafted offers these. One option would be for a cross-departmental body to oversee the call-in powers. I listened to the Minister talk about the investment security unit in his introduction but I am not sure that that was clear, as my noble friend Lady Hayter outlined in her introductory remarks. Some further clarity on that would be much appreciated.

Finally, I worry that the Bill does not go far enough on takeovers, mergers and acquisitions outwith the realm of national security. For years the Government have refused to do more to protect growing UK companies so that they are less likely to be taken over, asset stripped or gutted by overseas businesses—which are often anti-trade union. Developing a robust takeover regime is essential if we want firms in our key sectors to grow and provide good jobs here in the UK. It is notable that we are coming into line with other countries on national security but not on takeovers; given the economic impact of coronavirus and potential corporate vulnerability, the case is now stronger, not weaker. The Bill is a missed opportunity to bring forward a comprehensive industrial strategy to help businesses to recover, grow and create jobs.

**The Deputy Speaker (Baroness Henig) (Lab):** I now call the noble Lord, Lord McNally, again.

3.33 pm

**Lord McNally (LD) [V]:** My Lords, I hope I am coming through loud and clear now, otherwise we will have to give up. I welcome the maiden speech of the noble Lord, Lord Woodley. I am very pleased that I am now able to follow him.

The right reverend Prelate the Bishop of St Albans posed the moral dilemma of how we trade with the world while standing up for human rights and democracy. I have no direct interests to declare, but I have been a long-time supporter of expanding our relations with China. I say this because the Bill is being interpreted in the media and among policy analysts as mainly aimed at China. I remember, not so long ago, Conservative Prime Ministers extolling a new “golden age” of trade, investment and collaboration with China. We need a very clear statement of where we now stand in these matters. Are we at the start of a new cold war with China? What range of inward and outward investments will this legislation bite on? Will there be guidance on what goods and services will be covered? Will there be national security implications that bite on third countries and trading blocs with which both we and China have relations? We need clarity on this.

My other interest is in the space industry. I act as spear carrier to my noble friends Lord Fox and Lady Randerson, who lead from the Front Bench on these matters for the Liberal Democrats. I am also a

member of the all-party space group, and my son is a space engineer working for a Franco-German satellite company in Munich. Last week, I attended a round table with companies involved in the space industry. Concern was expressed about the implications of the Bill for both companies and universities, and about where this legislation draws the line on collaboration and joint working. I am old enough to remember when Britain last tried to go it alone in space with Black Arrow and Blue Streak, and I worry about the extent to which this legislation is a dangerous step away from international co-operation in space. It has even been suggested that this legislation will mean that security and military considerations will dominate future space policy.

It is a reflection of where we are going that in the last century, at the height of the Cold War, the US and the Soviet Union were able to co-operate on the international space station and multinational space flights, yet today US law prevents collaboration in these fields with China. The outcome could well be that the next boots on the moon have “Made in China” on them. During the 20th century we were able to de-escalate the Cold War with a series of treaties. Should we not be pressing ahead with international treaties to prevent the militarisation and weaponization of space?

On a broader front, I have been concerned with the number of bodies—from international infrastructure investors to the City of London, the Russell group of universities and the Law Society—which have raised concerns that will need to be explored in Committee, including the expansion of bureaucracy implied by the Bill.

I have no doubt that the Bill will pass. But during its passage through the House I hope we will stress-test its proportionality and explore where it will take us, both in space and other sectors, and assess the chilling effect it will have on relations with those with whom we wish to trade and co-operate.

I thank noble Lords, and I thank the technicians for getting me in touch.

3.38 pm

**Baroness Northover (LD) [V]:** My Lords, the Bill addresses the real concern of the need to safeguard UK national security and reflects the changing nature of threats to that. Indeed, there is much concern now about the rise of China, as my noble friend Lord McNally has just noted. There are clearly both opportunities and threats here. The debate over Huawei reflected this concern, as did Chinese involvement in our energy infrastructure. The concern that our technology might be stolen is also a huge area.

Devising a legal structure that deals with these potential threats has clearly been a challenge. The Law Society of Scotland points out that:

“It is a complex task to create a system which will balance the need to maintain an open business environment and promote fair competition with the need to protect national security.”

There is a real risk that the Bill will constrain investment into the United Kingdom—as the noble Lords, Lord Leigh and Lord Bilimoria have just said—at a time when, post Brexit, that is necessary, or that the EU might regard us as protectionist and penalise us. Clarity and transparency are therefore clearly vital.

[BARONESS NORTHOVER]

As my noble friend Lord Clement-Jones and the right reverend Prelate the Bishop of St Albans pointed out, national security is not defined, and this therefore leaves much in the hands of Ministers. Difficult as it will be, a definition is surely required. There is huge scope in the 17 sectors which fall under the Bill. Given all the other pressing matters that the Government will have to deal with post Brexit and post coronavirus, their unit is likely to be overwhelmed. On this point, I agree with the noble Baroness, Lady Noakes—a rare event for me. Companies and their lawyers are indeed likely to err on the side of caution and refer themselves in. The Government have probably made a gross underestimate of the number of cases they will need to assess here. The Government have said that they will bring detail through secondary legislation, but that is itself concerning, as this is presented to Parliament on a “take it or leave it” basis.

As for where we see security challenges, we have already seen concern during the pandemic about overreliance on China; for example, for PPE. Who would have thought that cotton could be seen as a national security question? We must add in the Foreign Secretary’s recent announcement that businesses must, rightly, examine their supply chains and not source from the labour camps of Xinjiang or other centres of human rights abuses. We cannot rely on such appalling sources. Given that much PPE may have originated there, the challenge becomes even clearer.

The integrated review of the defence and security of the United Kingdom should surely have preceded this legislation, so that we could see what the Government think are the major threats facing the country: whether cyber, pandemics or other threats. Will the noble Lord tell us when that review is now expected, so that we can look at it alongside the Bill? The pandemic and Brexit have indeed shown us the risks of outsourcing as much as we now do.

How does the Bill sit with any industrial strategy? As my noble friend Lord Clement-Jones noted, we need that too, to understand better the key areas in the UK economy and the threats to them. In 2012, when my right honourable friend Vince Cable drew up his industrial strategy, he emphasised the biosciences. Investment in the Crick Institute, Oxford, Cambridge, Imperial, and elsewhere was increased, and that has paid off in spades in this pandemic, where we have led the world in genomics, vaccine research and much else.

We understand that the integrated review will also emphasise the UK as a science or bioscience power. Tackling climate change must also be part of that, for the UK but also globally. However, we also know that these are areas where China intends to excel, and surely has the resources to do so. China has disproportionate control, for example, over the minerals required for electric vehicle batteries and wind turbines. So, are these areas where our security is at risk? If so, how will the lines be drawn? How will our universities and research centres be impacted by the Bill, as others have asked? The Russell Group points out that they drew in investment worth over £1 billion in 2018-19, and they are concerned about the scope of the Bill, about uncertainty and delays.

This is a challenging area. There are, indeed, new threats to the UK that were not anticipated when the Enterprise Act was passed in 2002. The balance between encouraging investment and maintaining security needs to be carefully considered. As other speakers have said, there are questions here whether the structures proposed will manage adequately to support that investment while also defending national security. I therefore look forward to the Minister’s response.

3.44 pm

**Lord Stirrup (CB):** My Lords, let me say at the outset that I welcome the proposition that underpins the Bill—the proposition that we need to act to protect our critical national infrastructure from the possibility of malign actions by external agents operating under the cover of legitimate businesses. We live in an era when those who wish us ill will not confine themselves to traditional forms of confrontation; they will seek to exploit weaknesses in the fabric of our social and economic structure. Technological advances bring with them exciting opportunities to do new things, or to do old things in new ways, but unfortunately, they also introduce new vulnerabilities, and the more complex and interconnected society becomes, the more vulnerable it is to shocks. It is this vulnerability that we must address.

The proposed involvement of Huawei in the UK’s 5G network certainly brought the issue to the fore, and although there were some exaggerations on both sides of the argument, people were right to be worried about the involvement of a foreign Government—the claim that Huawei is a private company free from any influence of the Chinese Government is, frankly, risible—in such a crucial part of our infrastructure. So, in my view there is certainly a serious problem that needs to be addressed. The question is how well this Bill contributes to that process. It is, I think, a good starting point, but we need to take care that it does not end up being more of a hindrance than a help.

I return to my central point: those things that advance the capabilities of our society introduce new vulnerabilities. However, the reverse is also true: those things that introduce new vulnerabilities also advance the capabilities of our society. The free flow of ideas, inward investment, the introduction of new business processes; all these things contribute to the health of our economy, to the opportunities within society and, indeed, to aspects of our national security. So, in constraining a *laissez-faire* approach—and it does need to be constrained—we must be careful lest we do more damage than we prevent. Our constraints need to be carefully balanced and well targeted, which of course begs the question of how we decide on that balance and on the appropriate targets.

Key to that is our definition of national security and our judgment of how far it needs to be applied to business questions. In thinking about this, we should realise that in our world, there is no such thing as perfect protection. We cannot foresee, let alone protect against, all eventualities. We will make mistakes, since error is a fundamental part of the human condition, and these will undoubtedly come back to haunt us. With that in mind, we should take as our aim not the complete elimination of danger but the creation of resilience.



Resilience depends, in part, upon redundancy. In order to provide such redundancy within critical sectors of our society, we may well need to broaden, rather than narrow, the involvement of overseas companies and inward investors. We must be careful that, in seeking to exclude potentially malign actors, we do not also deter those whose involvement would actually improve our national security. Resilience also depends upon agility, the ability to react swiftly and decisively to changing circumstances, or to challenges that we did not or could not foresee. The potential danger lurking within the Bill is that it could create a rather sclerotic bureaucratic process. Taken together, the mandatory and voluntary schemes are likely to result in a flood of applications. If the mechanisms set up to implement the measures in the Bill become clogged with endless paperwork and ponderous deliberations, we risk a situation where the focus is on process rather than results. Nothing could be further removed from the kind of agile, responsive system that we need. We would not only hamper innovation and flexibility within business, we would also increase, rather than reduce, the risk of a successful attack by a potential and perceptive enemy.

For me, the Bill is not about principle but about practice. How will applications be triaged so that effort is focused on the true risks? How will judgments be reached that strike the appropriate balance? How will they be monitored in a rapidly changing world, and how will they be adapted to take account of such changes? My concern is that government departments are not traditionally good at responsiveness and agility. It seems to me that the composition of the investment security unit within the Department for Business, Energy and Industrial Strategy will be an important factor in this regard. If it operates as a fairly standard departmental committee, I fear we will not see the outcome intended in the Bill. To what extent will the new unit draw in external expertise from both the business and security sides of the equation? To what extent will it be able to maintain a long-term view of issues? Will it be able to form a cumulative picture of risk, rather than just looking at each matter on an individual basis? How will its work be audited, assessed and reported?

I support the Bill, but before it is passed into law, I believe we need some firm assurances that the mechanisms and processes set up to give it effect will be fit for purpose in this complex and dynamic world.

3.50 pm

**Lord Dodds of Duncairn (DUP) [V]:** My Lords, it is a pleasure to speak in this important debate on a critical piece of legislation and to follow the noble and gallant Lord, Lord Stirrup. I also welcome the noble Lord, Lord Woodley, to the House and congratulate him on his maiden speech.

There can be no dispute that the powers in this welcome Bill are absolutely essential to protect this country from hostile forces that would undermine our national security. The legislation has been a long time in gestation. The current statutory basis for the scrutiny of takeovers is the Enterprise Act 2002 and our partners have long since updated their legislation to bring it into line with the massive technological and other advances of the past 20 years. It is high time that we did so, too.

The powers in the Bill should be used only on the grounds of national security and not for intervening for wider economic purposes or, of course, political reasons. I ask the Government to clarify how they intend to ensure that that will indeed be the case if “national security” is not defined in the Bill. While protecting national security, we need at the same time to ensure that we do not unnecessarily hinder foreign investment through uncertainty and unnecessary extra administrative burdens. The United Kingdom has always attracted considerable foreign direct investment and my own area, Northern Ireland, has one of the highest proportions of FDI per capita of regions in the United Kingdom outside London and the south-east. The Bill is the National Security and Investment Bill—I stress “and Investment”. It is important that there is proper balance between protecting national security on the one hand and making sure that the United Kingdom remains fully open for business and foreign investment on the other.

The new investment security unit in the business department that has been mentioned a number of times will be crucial to the smooth operation of the new regime and must be properly resourced from day one. We have been told that there could be up to 1,800 notifications a year, although the voluntary notification system could result in a much higher level of work than is currently anticipated. In the early days at least, many companies are bound to seek reassurance, which could lead to the authorities being swamped. People will err on the side of caution. I understand that at present there are about 60 notifications a year to the Competition and Markets Authority, for example. Will the Government ensure that staffing levels will be sufficient, and will the staff and officials in the unit have the training and the technological and other resources to cope from the outset? If there is a greater level of notifications, resources will have to be increased rather than there being any extension of the administrative timelines for the declaration of notifications.

Particular attention, as has been said by other noble Lords, needs to be paid to the situation of small and medium-sized enterprises. Under the previous regime, a business to be acquired must have a UK turnover of more than £70 million and the merger must meet a minimum 25% market threshold. That meant that sensitive smaller companies were not covered. I totally accept that nowadays it is not the size of the business that should be the test of whether threats may be posed by foreign investment, so it is right that the Government take powers to intervene in the case of smaller businesses. But they must ensure that that does not threaten investment in small firms and stifle their growth.

It is expected that small and medium-sized enterprises will now make up some 80% of the transactions under the new regime, so steps should be taken to provide timely guidance to SMEs in particular about the impact of the new regime. It may be that the Government should consider setting up a special unit to engage with smaller and medium-sized companies to help them negotiate the new rules, and they should certainly keep that under review and monitor how the new rules are affecting that sector.

[LORD DODDS OF DUNCAIRN]

No doubt, many of these issues can and will be explored more fully in Committee but I add my welcome for the principles of the Bill and there should be no question about getting this legislation on to the statute book as soon as possible.

3.54 pm

**Lord Robathan (Con) [V]:** My Lords, I welcome the Bill. It has been a long time in coming, I intend to look at the context of the Bill and its genesis. Over a decade ago, when I was working in the MoD, we saw newspaper reports that 90% of cyberattacks on the UK came from one house in Shanghai. This Bill is largely about Chinese influence being embedded in our critical national infrastructure and that is why we should concentrate on China. I wish the Chinese people well but the Chinese Communist Party is pursuing a policy of hegemony and aggrandisement. The noble Lord, Lord McNally, agreed that this has been generated by China.

I will cite a few examples. The Chinese have been building military bases on reefs built out of concrete on islands in the South China Sea, which they now claim to have territorial waters around. The belt and road initiative, which is eight years old or thereabouts, was welcomed by the media and, seemingly, western Governments. But, in fact, China has been buying up Africa, Sri Lanka and elsewhere with its belt and road initiative. I was in Ethiopia 15 months ago, where there is a brand new airport in Addis Ababa. Ethiopia may find that some of these debts do not get repaid but that is for another day. Over a decade ago, we knew about Chinese reverse engineering whereby they get hold of sophisticated technology and military equipment, work out how to build the stuff themselves and then use western secret technology against us. I hope we understand that now the scales have fallen from our eyes at last. Charles Parton of the Royal United Services Institute, speaking to the Commons Committee on the Bill, described the Chinese Government as pursuing a policy of “civil-military fusion”. That sums it up.

As we can now see, we can believe reports about Chinese treatment of the Uighurs, which perhaps we denied for some time. There are BBC reports today about systematic rape. We know about organ theft [*Inaudible*] million people. We can see what is happening in Hong Kong, where the Chinese are breaking the terms of the joint declaration, a legally binding international agreement. We can see the military threat to Taiwan and, I fear, the chance of war. We can see Chinese moves to building a military and commercial empire, and using threats and economic muscle against, for instance, Australian wine exports after that country dared to criticise the Chinese and suggest that the virus came from Wuhan.

I support the Bill for those reasons because our national security is under threat. The Government have got the message rather late—Huawei being excluded from 5G is a particular point that I raise—but it is not six years since Xi Jinping was entertained here and declared the UK to be the best Chinese partner in the West. Indeed, George Osborne said that this would be “a golden decade for the UK-China relationship”.

Today, Manchester University has cancelled an agreement with a Chinese electronics technology company because of that company’s involvement in surveillance

in Xinjiang. Ofcom has—again, this day—revoked the licence of Chinese broadcaster CGTN because the company is

“ultimately controlled by the Chinese Communist party.”

Although Cambridge University has helpfully sent us all a briefing paper saying how important Chinese money is to it, I should have thought that the exposure by the noble Lord, Lord Moore, of Jesus College and others in Cambridge and their close ties with China would have shamed it a little, at least.

Surely nobody can doubt any more the unfriendly intent of China. The genocide amendment of the noble Lord, Lord Alton, two days ago showed that the House of Lords understands that the behaviour of the Chinese needs, at the very least, close examination. Sadly, the EU has just signed a huge trade agreement with China, which is regrettable. Yes, we want inward investment, as my noble friend Lady Noakes said, and economic growth. We want to trade with the world, including China, but we need to protect ourselves and peace first, and the Bill goes some way towards doing that. I know that Governments do not always get legislation right, so we will watch the progress of the Bill, and amendments will certainly be needed as it progresses, but its spirit is correct and I support it.

4 pm

**Lord West of Spithead (Lab):** My Lords, first, I congratulate my noble friend, no longer in his place, on his maiden speech. I have to say, though, that Jeremy Corbyn is not my cup of tea, but clearly my noble friend Lord Woodley is a decent fellow, because he is an ex-sailor.

For several years, a number of us have been concerned about the impact of inappropriate takeovers and dual ownership of firms that were key to our critical national infrastructure and essential sovereign capability of cutting-edge research, technology, and equipment production and control. Some seven years ago, the ISC became very aware of this, and it was clear to it that national security issues around investment decisions were not properly being taken into account, so it said to the Government that they should take some action. I am therefore pleased to see this Bill progressing through Parliament. The legislation is vital to protect the UK’s security across a range of areas.

Having waited seven years for the Government to bring forward legislation, it is beholden on us and them to get it right, and there is one rather large hole in the Bill: there is no proper oversight by Parliament. In Clause 61, there is provision for an annual report to this House, but that report will contain the bare minimum of detail. The Minister has told the other place that the BEIS Select Committee will provide further oversight, and indeed that is the case when it comes to the economic aspects of decision-making. The BEIS Select Committee cannot see detailed classified national security material and, by their nature, decisions made under this legislation will require deep engagement with sensitive material and a clear-eyed understanding of the possible conflict between encouraging business and protecting our national security.

There is currently no provision for oversight of national security material on which decisions will be taken. The ISC was established in 1994 to provide

exactly that oversight: to examine matters that Parliament could not, because they are too sensitive to be discussed in public. It is therefore surprising that the Bill, as drafted, does not provide for oversight by the ISC. The investment decisions that the Bill covers are currently taken, in modified form—as has been mentioned by a couple of previous speakers—by national security elements within the Cabinet Office. Therefore, they are within the purview of the ISC. As these decisions will move to BEIS, that oversight will now be removed, so the Bill is in fact a step backwards.

During the passage of the Bill through the other place, it was proposed that the ISC should receive an annual report on the sensitive issues covered by the Bill. In response, the Minister said that the ISC could always request that information from his department. That is, frankly, not good enough. As my colleagues on the ISC have already noted, without statutory provision for routine ISC scrutiny in the Bill, there is a possibility that, no matter how well intentioned this Government may be, future Governments may refuse to provide such information to the ISC. The Minister had already argued in the other place that the ISC's remit does not extend to oversight of BEIS work, which undermines his later claim that the ISC can request information.

Therefore, unless the Minister says something to change my view, I intend to submit an amendment that would expand the current reporting requirements to include reporting to the ISC, incorporating details of the national security decision-making process into the existing annual report in Clause 61, allowing the Secretary of State to redact those matters from the report laid before Parliament and instead provide them to the ISC by way of a secret annexe. I hope the Minister will acknowledge that this is a constructive approach, in that it would lessen the burden upon the new BEIS investment security unit. If, for some extraordinary reason, the Minister is unable to accept this, the alternative would be to assure this House that the work of the new unit will be brought within the remit of the ISC by including it within the memorandum of understanding that sits underneath the Justice and Security Act.

It is critical that there is oversight of matters that Parliament itself cannot oversee. This House should not be passing legislation that allows for action in the name of national security without providing for oversight of that action.

4.05 pm

**Lord Truscott (Ind Lab) [V]:** My Lords, I, too, congratulate the noble Lord, Lord Woodley, on his excellent maiden speech. I welcome this Bill to ensure that our national security is better protected. For too long, it has been far too easy for foreign interests to take over and strip this country of vital companies, as was mentioned by the noble Lord, Lord McNicol. Concerns were also expressed by the noble Lord, Lord West. As noble Lords have identified, some of these interests represent hostile Governments and entities; others do not, but the impact on some crucial sectors and the ability of this country to protect itself are just as severe.

Our previous attempts to intervene on grounds of national security have been woefully inadequate, dating back most recently to the Enterprise Act 2002 and the

limited role of the Competition and Markets Authority. Forget about hostile state actors, for a moment. Under this legislation, we lost defence giant GKN and satellite firm Inmarsat. We face losing British chip giant Arm in a £30 billion takeover and a buyout of security firm G4S, which is a government contractor at prisons and nuclear power stations. Another UK defence giant, Cobham, was sold in January 2020 to US equity firm Advent, despite security concerns. As noble Lords know, Cobham is a world leader in air-to-air refuelling. Lady Nadine Cobham, daughter-in-law of the firm's founder, rightly said that such a sale would never have been allowed by the US, France or Japan.

The UK has been behind the curve in protecting sectors vital to our national security from foreign takeover. Take the United States: CFIUS, the Committee on Foreign Investment in the United States, was established back in 1988. It has a history of actively blocking takeovers that are deemed not in the national interest. A federal inter-agency committee, it is chaired by the Secretary of the Treasury. Additional members of CFIUS include the Secretaries of Homeland Security, Commerce, Defense, State, Energy and Labor, the Attorney-General and the director of the Office of Science and Technology Policy. The Americans take this very seriously. Perhaps Her Majesty's Government should take a leaf out of the Americans' book and set up a similarly high-powered co-ordinating committee. An underresourced investment security unit in the Department for Business, Energy and Industrial Strategy, as proposed in the Bill, is hardly the same.

We are not only well behind the US, but behind the EU. The EU is to beef up investment screening rules to block foreign takeovers of European companies tied to national security. Agreed last March, this came into effect in October. The European move was stimulated by Germany's experience, back in 2016, after the successful bid by China's Midea Group for industrial robotics specialist Kuka, which prompted a national outcry.

The UK has been slow to wake up to the dangers. Her Majesty's Government's national security risk assessment identified the threat in 2015, only after it had been pointed out in Parliament's Intelligence and Security Committee report, published two years before. At that time, the ISC investigated Huawei's involvement with BT and the potential threat to our critical national infrastructure, or CNI. The vulnerability of our CNI, including our communications and national grid, represents one of our greatest security challenges. A debilitating attack on our national grid could cost thousands of lives and billions of pounds. There can be no energy security for the UK where the possibility of interruption to our energy supplies remains.

As one senior nuclear engineer, who has spent decades in the industry, told me, there is no way a country could prevent a foreign-designed or foreign-operated civil nuclear power station from having the means to control it embedded in its systems. We would simply never know. You have to be pretty sure you know who your friends are when it comes to that sort of investment in the UK's nuclear sector. The ex-diplomat Charlie Parton, who was quoted earlier, said that the Chinese follow a policy of "civil-military fusion",

[LORD TRUSCOTT]

where it is difficult to see where the state ends and the private sector begins—or vice versa. They are not the only ones globally.

I have a couple of points on the Bill itself. I do not agree with those in the other place and in your Lordships' House who have talked about amending the Bill to include a definition or framework of national security. The Government must have maximum flexibility to meet any security challenges as they arise. We cannot legislate now for the threats of the future and it would be foolish to attempt to do so.

Secondly, the proposal for an annual report to the Intelligence and Security Committee, as well as to the House itself, is a good idea. Dr Julian Lewis, chair of the ISC, rightly pointed to what would otherwise be a scrutiny gap, as was mentioned earlier by the noble Baroness, Lady Hayter, and the noble Lord, Lord West. With proper scrutiny, however, this legislation cannot come too soon.

4.10 pm

**Baroness Bowles of Berkhamsted (LD) [V]:** My Lords, this Bill is about intervention when there is a transfer of control that puts at risk our security, and possibly vital supplies and critical infrastructure. I recall concern about vulnerability in the Economic Affairs Committee's 2017 inquiry and then report, *The Price of Power*, regarding electricity markets. Indeed, concerns do not have to relate to hostile foreign Governments, and that raises questions about how geographic lines will be drawn for the purposes of this Bill and what part trade agreements play. Will measures under the Bill constitute security measures that trump trade and investment agreements? How far is the Bill directed at not losing technology and R&D capacity more generally, given that undertakings during takeovers are often useless?

The Bill before us has one basic element, the notion of a trigger event relating to control, and then it is rather like a puzzle book. Has the Secretary of State got every possibility covered? Schedule 1 is particularly entertaining to try and design around, but what does it really mean in practice? One thing seemingly left out is an export-only manufacturer. I suppose that export licences would cover security issues, but could that not still be a loss of knowhow? While on that subject, why are licences or intellectual property rights not explicitly mentioned in Clause 7, and perhaps other choses in action—or are they “things in action” nowadays?

If one accepts the “trigger” notion, it becomes an exercise in how to make it work and where the burdens lie. For one thing, it will require people with a wide range of knowledge, including in cutting-edge science and engineering, to do the scrutiny. Notifications will hit at a rate of more than four a day under the Government's estimate, and may be much higher if there are lots of precautionary submissions. How much time does the Minister consider it takes an individual to scrutinise technology and understand the ramifications? How much reliance depends on the notifier, and what level and volume of information and data will be needed in a notification? A real problem is not where it is already known that there are security implications, but where that is a theoretical potential.

I have experience of battling over secrecy restrictions on patent applications, when key words would trigger a secrecy order because that was all the designated official could understand. Words with dual use implications such as “radar”, “laser” or “spread spectrum” in their time almost always gave spurious, annoying triggers—spurious because when it was known that there were security implications, that was made clear in advance, and annoying because it would be several months before the “all clear” from the MoD review would come back. An insecticide that could be nerve gas famously slipped through. Can we be assured that arts graduates will not be in charge of analysing scientific information? Let us hope that that is a thing of the past, but the scope of this framework Bill has raised concern from universities faced with how to comply with yet unknown notification requirements and the implications of delays when there are short timescales for concluding competitive contracts with sponsors for research.

The unfiltered sectoral scope is presently staggering. Looking at the list of materials, which is of particular interest to me as a solid-state physicist, apart from it being huge, I wondered how on earth people would know at early-stage developments whether something was notifiable if there had not been a specific notifiable type of target use? When designing materials to provide protection in car crashes, would their use in armaments always spring to mind? How early does speculative usefulness count? “Speculative” is a difficult concept in an academic world that demands hard evidence to substantiate claims.

Call-ins do not commence until there is a statement about how powers will be exercised. It is expected that the statement will narrow things to a more manageable scope, but Clause 1(8) says that statements are not actually limiting. Will the Minister confirm that that is meant as an emergency power rather than a regular fallback?

Once the Bill passes, there is a Damocles' sword over everything in the 17 sectors, which is a problem for businesses needing to plan ahead for investment sources. The statement is all important and I would like to know more about it. Is it to be one big statement covering everything or is it going to be staged in some way, and why does Parliament get a vote only at the end, with no advance consultation or ongoing oversight of any kind? This is an instance where information on the scope of the statement is vital before legislation is passed and before consultation on a draft statement. Can the Minister give an example of what is envisaged in any area to enable a feel for the type of narrowing or detail under consideration? I am not against the notion of interventions, but the Bill should be more than notion and compulsion, and I hope that it is possible to include more direction and balance.

4.16 pm

**Lord Lansley (Con):** My Lords, I am glad to have the opportunity to contribute to what is already an interesting debate. I am grateful to my noble friend the Minister for his introduction because it has helped us to see the Bill's shape very well. I also welcome the noble Lord, Lord Woodley, and look forward to his contributions to our debates on this Bill and in the future.

I was a member of the Standing Committee on what became the Enterprise Act 2002. I do not think that we lacked an understanding at that time, in the wake of the terrorist attack in 2001, of the nature of the emerging risks of asymmetric and unconventional threats to this country. The point is that the Enterprise Act is limited since it relates to qualifying mergers, and of course to some extent it is a post hoc regime when what we need is something that gives people clear notice of and predictability about the nature of any intervention. The scope and the need for these interventions under this legislation is warranted and I support the Bill.

My noble friend the Minister said that there are, as it were, complementary or parallel regimes in other countries. Actually, they are different, and what is being proposed here by the Government for this country is better. For example, the EU regulation relates essentially to the screening of investments across a wide range, but of course, that is not limited to national security. It includes, for example, the media sector because that concerns national security and public security, and it drifts into public order. The fact that we are focused on national security is important. Indeed, one can see from the way the scheme is implemented in France, where it is focused on foreign ownership, that it also drifts into strategic autonomy, which is the new phrase of the moment in the European Union.

We might want to be more autonomous in terms of our supply chains, but this is not the mechanism for doing that. This Bill is about national security and it is rightly focused on that—“project defence”, as my noble friend on the Front Bench referred to it. If we want resilient supply chains, we must have mechanisms which focus on that, but let us not confuse them with the proposition that these necessarily represent a threat to our national security; let us focus on these things separately. For example, promoting foreign direct investment remains an objective that we all support, and the Office for Investment within the Department for International Trade is a welcome step in that direction.

We have a series of distinct purposes with distinct regimes. I will not go on at length because many noble Lords have already helpfully illustrated where we need to look in Committee, particularly at how the regime is going to work. I shall mention some points that I think will be important.

The first is that we have to think about how this regime interacts with all the others. How does it interact with the public interest regime, for example? My noble friend talked about the financial services sector, and of course there is a public interest intervention regime under the Enterprise Act as well, and there is the question of how the competition regime is to work. We want to secure ourselves against risks, but we do not want so to diminish competition as to harm consumers.

We need to look at other regulatory regimes. For example, we need to look carefully at the question of critical infrastructure in the water industry and the utility regulators.

A number of noble Lords have referred to SMEs. If indeed literally 1,000 or more SMEs a year are having to make notifications, we have to think very hard about how we look after their interests and help them through the process.

A number of noble Lords have mentioned the higher education and university sector. The relationship between the kind of technologies that we are dealing with here and higher education and research and development is an important interaction that we need to understand.

That brings me to the point that a number of noble Lords have talked about: defining national security. In this respect I think I agree with the noble Lord, Lord Truscott. We cannot define national security directly but it is already the case in the Bill that, if one looks at the consultation on the specified descriptions, the 17 sectors and how they are described—I have to say, a document that exceeds any other in including terminology that I do not understand—and asks whether there would be a risk if control of all these assets, technologies, activities and infrastructure were to pass into the hands of hostile actors, then by definition you have defined national security. You do not need another definition because it is already there in the Bill.

My final point is that I entirely agree with the noble Lord, Lord West of Spithead. What he proposes in respect of parliamentary oversight on the security aspects of this is absolutely right, and I hope the Government will listen positively to what he had to say.

4.22 pm

**Lord Rooker (Lab) [V]:** My Lords, that was an excellent maiden speech by my noble friend Lord Woodley. I have no interests to declare but I note that vested interests on all four sides of the House have been well out in force today, and I encourage the Minister to stand firm on this issue during the passage of the Bill, to which I give my full support. It has been a long time in gestation.

I have fully supported many of those Tory MPs concerned in recent years in a very vocal way at the activities of Huawei in the UK and elsewhere in the West. I have never believed a word of the Huawei PR machine operating in Westminster. There is a pattern, and you can see it now, around Burma and China: when you strip away the covers, you find that the revolutionary guard, the army and the Communist Party actually own the companies and the capacity of the country. Free trade is a good, but it is one that needs looking after. It is the very openness of the West that is used against us by those who seek to oppose and undermine our way of life. How far we go in protecting our openness by clamping down is a paradox. In my view, the Bill is a step in the right direction.

I welcome the speed with which the Government are operating now that the Bill is with us—it is less than three months since the Bill was introduced and published on 11 November. I fully accept that, to protect the economy, it was not possible to publish well in advance the sectors of the economy where notification to the Secretary of State was required. I hope that definitions of the sectors will be well-defined, so as to avoid loopholes emerging. I await with interest, as will others, the secondary legislation that will list the sectors in detail.

I also think attention needs to be paid to the mainly London-based blue-chip accountants and legal firms that facilitate foreign investments, particularly those

[LORD ROOKER]

where it is going to be found that they fall down on national security items. A fortune has been made by some of these companies in recent years, but they operate under the cloak of respectability, and that needs stripping away. The Bill needs to be operating as soon as possible.

If I may just turn around the title of the Bill, I think we need a Bill to encourage investment in manufacturing as a means of enhancing national security. If the noble Lord, Lord Heseltine, had made it to Prime Minister, we would have had such a Bill a long time ago. Yes, I approve of foreign investment in the UK—after all, we do a lot of it overseas—but we need more homemade investment to give our economy greater security. I am not for turning the clock back to, say, the 1960s and 1970s, when I worked in UK-owned factories making and exporting things that we no longer make or export, but the shift against manufacturing at home has gone too far. We should pull some of it back, particularly from areas without the rule of law, such as China.

Remarkably, with the Covid crisis, the manufacture of PPE is being pulled back from abroad—relating to national security, when one looks at it that way—and that is a step in the right direction. Obviously it has been born out of the tragedy of the virus, but it ought to be part of our national plan. We have plenty of land for new premises, by the way; only 12% of England has been built up, so there is no argument that we do not have the space, and we certainly have the people. I hope the Bill can make a difference.

A figure in one of the briefings caused me to go back and check an issue that a previous speaker has mentioned: only 12 transactions have been reviewed on national security grounds since 2003 under the current regime, whereas in table 1 in paragraph 83 of the Bill's impact statement, the estimate is that between 1,000 and 1,830 transactions are expected to be notified in a year. As a previous speaker pointed out—who had loads of interests to declare, although I am not criticising him—1,830 is a very peculiar figure. It could have been from 1,000 to 2,000. You cannot be that precise in these circumstances. The point is that this is serious work compared to what has happened in the past, so it will need key resources. The Minister has to convince the House that the resources will be there.

My final point is that I agree entirely with my noble friend Lord West of Spithead regarding oversight. There is a big gap here. The Bill is a step backwards, leaving it to the BEIS team. The ISC must be involved; it is clearly fit for purpose. My noble friend's suggestions—there were more than one—are very positive, and I hope the Minister's response is equally positive.

4.28 pm

**Lord Hodgson of Astley Abbotts (Con) [V]:** My Lords, I add my congratulations to the noble Lord, Lord Woodley, on his distinguished if somewhat combative maiden speech.

I congratulate the Government on bringing forward the Bill. It raises some fundamental principles, standing as it does at the intersection between the needs of the nation on the one hand and the rights of the individual on the other. The fact that respect for individual

property rights in this country stretches back for getting on for 400 years should not be underestimated as a factor in making the country an attractive investment destination, as my noble friend Lady Noakes pointed out, and it is one that we fiddle with at our peril.

I have a second reason to congratulate the Government. I chair the Secondary Legislation Scrutiny Committee of your Lordships' House. Early last autumn, we scrutinised the two regulations that are referred to on page 4 of the excellent Library briefing on the Bill, one lowering the thresholds and the other extending the range of categories laid down in the Enterprise Act. Our committee was pretty concerned because we felt that important decisions like that ought to be in primary legislation and were not appropriate for secondary legislation. The Government response then was that primary legislation would come forward when time allowed, and I have to say that my committee was not entirely impressed with that reply. So it is good to see that the Government have acted promptly, and I congratulate my noble friend.

Having complimented him, I was at this point going to give him a mild kicking. I was going to say that it contrasted unfavourably with the slow response to the undertaking that he gave to the House last June about pre-pack legislation, but only half an hour or so ago, at 3.25 pm, a letter from his department pinged into my inbox—he no doubt thinking that I was going to raise this—and I now have to read the letter before I can let the kicking commence.

I go back to the Bill. Of course I understand the macro risks to our national security and I agree that we have to have adequate safeguards in place against them, but in my remarks I want to focus on what may be the practical implications if this Bill does not provide a clear, balanced and stable policy framework. In doing this, I draw the attention of the House to my career in private equity as an adviser, investor, director and chairman.

As the Government have removed the turnover test and extended the categories covered, the number of companies that fall within the provisions of the Bill has grown exponentially. Investing in early-stage companies is, as they say, a tough paper round. Out of 10 investments, probably at least half will fail, two or three will limp along, known in the trade as the living dead, and one, or if you are lucky, two will provide the reward to compensate for the money lost on the others. To get sufficiently attractive returns, the individual company will almost certainly have had to expand overseas. The UK market alone is not really large enough, and that brings the company to the attention of overseas investors and Governments.

Noble Lords can see where I am heading: just as the investors are about to reap their reward, the Government step in with a call-in notice. That is not just devastating to the investors, who the noble Lord, Lord Rooker, was slightly dismissive about; it will be a huge shock to the operations of the company itself. Markets being markets, as my noble friend Lord Leigh of Hurley pointed out, they will react as the new regime beds down and begin to price in the risk. Due diligence schedules will be amended to include a new inquiry as to whether the company operates in one of the designated sectors.

As a result, those sectors, in which we in this country probably wish above all to encourage investment, may find it more expensive to obtain funding.

Much can be done to offset this if the Government can provide maximum certainty about what lies ahead—and I was glad to hear my noble friend's remark that they understand this. As we go into Committee, I hope that we can discuss more about what constitutes national security, what constraints there are to be on the Government adding more sectors, the need to publish codes of practice on the Government's detailed approach and to ensure that they are updated frequently in the light of experience and, last but not least, as many noble Lords have said, the need adequately to staff the investment security unit to meet the 30-day deadline—and with an estimated 30-plus references a week, that will be no easy task.

In my last minute I shall make two small points. In our discussion so far, we have tended to talk about successful companies, but there will be unsuccessful companies in the designated sectors which may find that a foreign investor is the only port in the storm. What is the policy response then? Is it to provide the necessary funding from the public purse under Clause 30, to let the company collapse and disappear or to allow the foreign takeover to go ahead?

Finally, in my last 30 seconds, the House should be aware that under this new regime we will be considering not just professional investors and managers but family businesses, men and women who after a lifetime of effort involving considerable sacrifice in building up a successful business now wish to reap their rewards. Under the provisions of the Bill, the Government could prevent the sale of such companies. Will Clause 13 provide compensation for a lifetime's work in those circumstances?

4.34 pm

**Lord Bruce of Bennachie (LD) [V]:** My Lords, the Bill has arrived in this House from the other place unamended, and across the House there has been general recognition of the need to reform takeover and investment rules to take account of national security considerations. However, for the Bill to be effective and proportionate it needs a clear statement of government strategy on what comprises national interest and security. At the moment, the provisional list of sectors is a catch-all and needs more detail. The Law Society of Scotland has stated reasonably that the Bill should be clear and that definitions of national security and details arising should not be left to secondary legislation. Without clarity, businesses and investors will face uncertainty about whether an acquisition or an investment in an influencing stake should trigger a referral, as other noble Lords have already stated. Should the fact that a foreign agency has a stake or qualifying interest in a UK-based company in any of the key sectors be, of itself, a reason for referral? The Law Society of Scotland and others believe that with a lack of clarity the number of referrals could be high, and that has been raised by a number of noble Lords.

There is also concern that, as the briefing states, almost anything purchased could conceivably be employed to attack national security. Examples are computers, drones, cameras and HDMI cables. So a medium-sized contractor preparing to start a contract could find

itself subject to a referral, so delaying the contract and leading to extra costs and potential penalty clauses. This could even arise out of a malicious complaint from a competitor.

The society also highlights issues with Scots law relating to securities. This could be resolved if Clause 8 were amended to make it clear that nothing is triggered where the party taking security does not factually take control. Will the Minister consider this as failing to do so could specifically deter investment in Scottish companies?

There are also concerns that the possibility of referral could have an impact on the investment management industry, which is also important to the Scottish economy. The Institute of Directors, while accepting that the Government's powers to intervene in the economy on grounds of national security need to be robust, is concerned about politicisation if the law is not clear. It is concerned that there will be a huge increase in workload, with real burdens on SMEs and that this, in turn, could, as the IoD puts it, have a chilling effect on investment.

Writing in the *FT* John Fingleton, former head of the OFT argues that the Bill goes far beyond measures introduced elsewhere in terms of its scope and in the measures that it introduces, including calling in deals up to five years after they were concluded. The Bill is also retrospective and applies to deals concluded the day after it was published, yet deals that may be affected can be referred to a new investment and security unit. Can the Minister say how that will be established and resourced because, as many noble Lords have said, the workload could be enormous and the specialisation should be very specific?

Both Fingleton and the IoD are concerned that, as the legislation is framed, it could lead to political lobbying for intervention with the possibility of Ministers using subjective, topical, political criteria. With this amount of uncertainty, there is a real danger that potential investors in UK businesses will be deterred and will look elsewhere. Many successful small and medium-sized businesses look for foreign investors to enable them to grow. They may find it harder if they are in one of the key sectors. The time and delay for an adjudication could be a decisive factor in preventing new investment or urgent refinancing or restructuring.

The current UK Government have been driven by their determination to deliver Brexit. The fall-out from the TCA will be felt for many years. What is not clear at home or abroad is what the Government's strategic objectives are for the UK's trade and investment future. Where is the industrial strategy? They have decided that our geography is not a prime asset. Why else would we tear up market access in Europe for as yet unquantifiable access to markets on the other side of the world? We have world-class universities and research and areas of technical excellence. I do not suggest that the Government should pick winners, but surely a strategy for building our economy based on our strengths and actively seeking international partnerships is a reasonable task. Of course, security threats may not be anticipated, and the Government need to be able to act when we are threatened, but a clearer set of criteria would balance national security against the need to keep Britain open for business.

[LORD BRUCE OF BENNACHIE]

In that context, I want Scotland to continue to offer an attractive location for inward investment. It is key to building a modern economy, developing new skills and improving the balance between the public, private and mixed sectors. We can be in the forefront of 5G, AI and quantum computing as well as biosciences and space and science technology, which was mentioned by the noble Lord, Lord McNally. Brexit presents bumps in the road, but uncertainty over Scottish independence could create roadblocks. Let not this Bill become another obstacle to investment. If it is clear, targeted and proportionate, it can protect our national security and investment promotion, and I hope that when it leaves this House it will do precisely that.

4.40 pm

**Baroness Bennett of Manor Castle (GP) [V]:** My Lords, I join other noble Lords in congratulating the noble Lord, Lord Woodley, on his arrival in the House. He commented powerfully on the failure of privatisation. They are remarks I welcome and to which I will circle back.

Two Greens are speaking in this Second Reading. My noble friend Lady Jones of Moulsecoomb will talk about the national security aspect of the Bill and I will speak on the investment part. My noble friend will focus on the major, long-identified threats of the climate emergency and the nature crisis, with its many linked dangers, including that of pandemics. On those and other issues, as the noble Baroness, Lady Northover, noted, it is nonsensical that we are debating this Bill while still awaiting the integrated review. I want to focus mainly on the investment part of the title and on another element of national security—poverty, inequality and how the finance curse contributes to them.

There is increasing academic focus on the importance of giving macroprudential regimes a sense of social purpose, including in respect of national security. Excellent work is being conducted at the University of Sheffield, particularly by its Sheffield Political Economy Research Institute, known as SPERI. We have an oversized, overactive, extractive financial sector. A SPERI report conservatively put the cost of the finance curse between 1995 and 2015 at £4,500 billion. That has to be seen as a threat to our national security. Money that could be strengthening our society is lost, as is control over a commodity as essential to a modern society as water or air. The finance curse is built on a sector that, as we learned in 2008, is as fragile and dangerous as an oversized dictator's statue teetering on an inadequate, narrow pillar.

The other security threat lies in the extractive processes. There are huge and widely acknowledged issues of corporate culture and priorities, as well as regulatory loopholes and blind spots which allow financial funds and senior corporate management to loot companies and hollow out balance sheets. As a society and as a Parliament, we have lost control.

This issue arises particularly in the context of this Bill, where we are talking about investment by foreign companies in foreign states. We might hope that some pressure could be put on domestic companies to act in socially responsible ways by directing at least some of their funds to things we need to keep society running.

They have, after all, to exist in this country, even if they seldom keep their profits here. The same constraints do not apply to foreign investors. While we know that a huge percentage of profits from even UK investment ends up in offshore tax havens, we can be sure that those profits will not help us where there are foreign owners.

I want to focus briefly on the nature of a curse—be it finance or resource. We look around the world at nations often identified as suffering from resource curse, such as the Democratic Republic of the Congo, Venezuela, Iraq and South Sudan. They have huge problems of national—and internal—security. Oil is sucked out of their rocks. Our society is milked for cash. Meta-analyses of the resource curse show there is nothing inevitable about this. The quality of governance, the rule of law and the functioning of democracy are crucial to prevent it. Which is where we come back to this law—and the comments of the noble Lord, Lord Woodley.

In the UK, through continuing decades of privatisation, we have sold off the family silver. We are now down to the rather small teaspoons. When, in 2016, the people showed that they wanted to “take back control”, that reality was hidden, but the Government no longer have flamboyantly presented fictions about Brussels to hide behind. When they champion “Singapore-upon-Thames”, they will be held responsible for the consequences. Noble Lords working on this Bill, but particularly the Government, might want to focus on that.

**The Deputy Speaker (Lord Alderdice) (LD):** The noble Lord, Lord Clark of Windermere, has withdrawn, so I call the noble Baroness, Lady Ritchie of Downpatrick.

4.43 pm

**Baroness Ritchie of Downpatrick (Non-Aff) [V]:** My Lords, it is a pleasure to follow the noble Baroness, Lady Bennett of Manor Castle. I welcome the noble Lord, Lord Woodley, to the House and congratulate him on his maiden speech.

The aim of this Bill is to reform the way in which inward investment into the UK is investigated to ensure that hostile Governments or other entities do not use it to undermine the UK's national security. It follows calls for reform, including from the Intelligence and Security Committee of Parliament, to which the noble Lord, Lord West of Spithead, has already referred.

The purpose of this Bill is to prevent international economic crime impacting on major businesses in the UK, but a lot more bureaucracy and resources will be required to execute its provisions. Combined with the provisions in the Financial Services Bill, it will give the Government more legislative teeth with which to address economic crime and corruption. But will the legislation actually benefit businesses and university research? We are still in the Covid pandemic and it will take some time to come out if it.

The Government have argued that these powers are necessary because of the resurgence of state-based threats to national security and the risk of UK businesses being controlled by entities with close ties to hostile foreign Governments. It is important to stress that inward investment and global competitiveness should not be compromised as a result of these new measures,



which are undoubtedly the result of private Chinese interventions in the digital sphere. We need to be open for business and to have a continued inward investment platform. As the noble Lord, Lord Dodds of Duncairn, has already mentioned, in Northern Ireland we rely significantly for our manufacturing and business sectors on foreign direct investment. We also work directly with the universities on technology transfer. It is important that those industries are not impacted or undermined further by these proposed legislative developments, because it would have major repercussions for our fragile jobs sector. Our fragile business economy—particularly the aviation sector—must not be further threatened. High-level research must be encouraged and supported.

I want to concentrate on several areas. First, we need to increase parliamentary scrutiny of how the Secretary of State may use the powers in the Bill. This has been referred to during debate on the various stages in the other place. Businesses need clarity about how the powers in the Bill would be used and the definition of national security. We also need to ensure that this is not straight-down-the-line protectionism. There needs to be a mechanism for greater reporting to Parliament about the use of the powers. The Intelligence and Security Committee should have a role. The Secretary of State should publish guidance about the Bill and the regulations made under it within six months of it being passed. Will the Minister ensure that government amendments come forward in Committee or on Report to address the need for greater parliamentary scrutiny?

It is also important that small and medium-sized businesses are not undermined. There is a fear that the notification process could become burdensome on such businesses, which would now fall within the scope of the new regime. The possible impacts on businesses of the new regime must be properly assessed, and legislative measures put in place to ensure that they are mitigated. Will the Minister commit to protecting small and medium-sized businesses in this way?

I turn to the position of universities which host incubators and start-ups. University research and innovation are vital for the UK. They have close links with inward investment and the business and industrial sectors. This must not be compromised as a result of these new legislative measures.

Like many other noble Lords, I have received a briefing from the University of Cambridge, which is involved with the business sector, especially with university technology transfer. I hope that the Minister and his colleagues in BEIS will find some solutions to deal with those issues.

Let us remember that national security has been invoked in the past in the context of Northern Ireland. This led to a major demolition company losing a big contract, with investment and job repercussions. All these issues must be addressed. We need to achieve a balance in the contents and proposals of this Bill.

4.50 pm

**Lord Holmes of Richmond (Con):** My Lords, it is a pleasure to take part at Second Reading. I declare my interests and congratulate the noble Lord, Lord Woodley, on his maiden speech. I am supportive of the Bill and wholly supportive of the comments of my noble friends

Lady Noakes and Lord Leigh of Hurley. It is right that we salute innovators, founders and entrepreneurs, those who produce something where nothing existed before. They deserve all our gratitude.

We have the right environment for investment in this nation. The policy environment and the rule of law make the UK an excellent place for inward investment, and indeed, there is no contradiction. Our national prosperity is inextricably and rightly linked with our national security. In my comments I will cover definitions, the notification regime, the ISU and some associated points.

On definitions, we have a national security Bill with no definition of national security. Without broadening the scope of the Bill, does the Minister agree that a broad definition of national security would be helpful here, without taking it to the extent of other nations, where yoghurt producers and bottled-water manufacturers can come within scope of critical national assets? Similarly, it is right to note where national security and national interest come up against one another and sometimes overly overlap. We have seen in recent times, when the pressure was on, Australia reducing the quantum for referrals in its regime to zero. Similarly, with share ownership under the French regime, it has gone from 25% to 10%. These changes are at least interesting.

As for the notification regime, I am a supporter of the identified sectors—but there are difficulties, as other noble Lords have pointed out. Artificial intelligence, for example, is not a vertical sector or even horizontal, but more a coming ubiquity, and how it is dealt with is central to what is within this Bill. Similarly, on the numbers of referrals—12 in the past 18 years under the previous regime—as other noble Lords have commented, with 1,000 to 1,830, if you apply a multiple to that you will probably get closer to the level of referrals that will occur. Can the Minister say why a business would not refer, for want of certainty?

Similarly, on the impact assessment setting out those numbers, there does not seem to be any basis on which those numbers have been arrived at. I worry that, although it is positive that the information required for notification has dropped by two-thirds, microbusinesses are included, which could cause an unnecessary burden for them. We already have a significant scale-up problem in this nation.

On the ISU, there are questions about its digital capability, level of budget and number of personnel. It could, in reality, through notification, suffer from swampification. We have already seen this with the National Crime Agency. Can the Minister tell us what is being done about those 100 people in terms of their skills, their security clearance and their deep knowledge of the technologies involved?

With retrospection, we see a five-year period. Five years is quite a way from what was originally set out in the Green Paper and the White Paper. As for the overall intent of the Bill, I am supportive, of course. However, in Clause 7 most corporate entities are covered, but there seems to be a loophole in terms of individuals. No matter how small it is, is that a loophole that the Minister would consider closing? On oversight, I agree entirely with the noble Lord, Lord West, that there needs to be an addressing of this democratic accountability deficit, and the ISC is the proper place for this to occur.

[LORD HOLMES OF RICHMOND]

In conclusion, we have a good Bill. Does the Minister agree that with delicate, nuanced and proportionate amendments, we can make it a great Bill for national prosperity, national interest and national security, for today and for all our tomorrows?

4.56 pm

**Lord Foulkes of Cumnock (Lab Co-op) [V]:** My Lords, I, too, welcome my noble friend Lord Woodley to our House, and I thank the Minister for a comprehensive introduction to the debate. My only disappointment was that he sounded almost apologetic when he should be proud to be introducing this Bill to the House. Like my noble friend Lord Rooker, I was interested in the number of declarations of commercial interests by a number of speakers in this debate. I declare that my only interest is that of national security.

I welcome this Bill. It is long overdue, and I fear that we may already be too late in some areas. We may be closing the stable door after a few of the horses have bolted. At the risk of being labelled an “old leftie”, I felt much safer from assaults on our vital infrastructure a few decades ago, before the frenzy of privatisation, particularly during the Thatcher era. We were, for example, at the forefront of all aspects of nuclear technology, including electricity supply, when it was in public ownership. The United Kingdom built the world’s first nuclear power station and was at the forefront of the production of material for civil and military use when it was in public ownership. We felt secure because the United Kingdom Atomic Energy Authority, the Central Electricity Generating Board, the South of Scotland Electricity Board and the immensely innovative North of Scotland Hydro-Electric Board were all in public hands and in no danger of takeover by hostile investors.

Similarly, our telecommunications, railways and water supply, all key infrastructure, were all publicly owned and therefore by definition secure. The blitz of privatisation has resulted in all of them—except, thankfully, water in Scotland—being potential prey to hostile interests. The desire among a few of those who are already wealthy to increase their personal wealth has put the vast majority of the population at risk. It has certainly helped the billionaires, but the workers have not been helped to a great extent. Even some of our defence installations are being sold off, and government buildings in Whitehall are the target of the private investors. I have more faith in Governments, even this Government, to look after our national interests than I do in Capita or G4S. So, unlike some others, I am not inclined to ask for a watering-down of the powers in this Bill. Indeed, such strong action is long overdue.

When I was a member of the Intelligence and Security Committee, I became increasingly aware of the threats to our infrastructure, not just from Russia, China and other countries, but also from non-state interests. As others have said, the ISC, in its report, called for action as far back as 2013, so the delay is regrettable. Some investments may well have been made in anticipation. Thankfully—I commend the Government for this—some interim strengthening has been made by secondary legislation. I also understand and accept that not all these discussions should be in the public domain as we move to protect the interests of our people, because of the sensitivity.

I agree with those who have suggested that a wider definition of national security might be necessary to take account of technological changes—particularly in relation to the internet and social media—and the expanding range of hostile interests. I am disappointed that the Minister seemed to rule this out, even in his introduction. I hope he will think again.

Finally, I agree with Dr Julian Lewis, the chair of the Intelligence and Security Committee, my friend and colleague Kevan Jones, who is a member of that committee, and, of course, my noble friend Lord West, in their view that the ISC should clearly be closely involved in the oversight of this. The committee has the membership and the *modus operandi* to make it appropriate to undertake this task. Since this House is represented on the ISC by my noble friend Admiral Lord West, we can be assured that our interests are well represented there. I strongly support his proposed amendment, and I hope that the Minister will say that he accepts it in principle and that we might even get a government amendment to that effect.

I end where I began by expressing support for the Bill. I hope that we can get it into law without any delay.

5.01 pm

**Lord Bhatia (Non-Afl) [V]:** My Lords, the aim of the Bill is to reform the way inward investment in the UK is investigated to ensure that hostile Governments or other entities do not use this to undermine the UK’s national security. The Intelligence and Security Committee of Parliament actively called for this reform. The Bill would give new powers to the Secretary of State to call in acquisitions, including takeovers, to assess any risk to national security. The Bill would remove the existing business turnover thresholds, meaning that small and medium-sized enterprises could be subject to a national security assessment under the new regime.

The Bill would also establish a mandatory notification regime for certain sensitive sectors of the economy. Under this new regime, any acquisition would need to be registered with the Secretary of State. The Bill would also establish a voluntary notification regime, whereby parties to an acquisition would need to be registered with the Secretary of State. The Bill would also establish a voluntary notification regime, whereby parties to an acquisition not already covered by the mandatory regime would be able to notify the Secretary of State about the potential risks to national security. The Bill sets out the procedures for how a national security assessment would be conducted and resolved.

The Government have argued that these powers are necessary because of the resurgence of state-based threats to national security and the risk of UK businesses being controlled by entities with close ties to hostile foreign Governments. They have argued that the Bill strikes the right balance between encouraging inward investment and protecting national security. In this globalised world, there are many rewards and risks, types of money, and companies registered in tax havens that will hide those companies’ real owners.

My concerns are mainly about the tenders issued by the Government for defence materials. These are international tenders and it is obvious that price cannot be the only consideration unless the Government are

certain that whichever company wins the tender is open to scrutiny about who is the ultimate owner and controller of the winner. I submit that where our defence sector is concerned, the Secretary of State for Defence must have full powers to reject the winner of the tender if there is any doubt about its the ownership or integrity.

5.04 pm

**Lord Naseby (Con) [V]:** My Lords, I too welcome the Bill. It follows on from the Financial Services Bill and the Trade Bill, and all of them follow on from the Brexit Bill. I know it is unusual, but I thank in particular my noble friend Lord Callanan on the Front Bench. He has been involved in all these Bills and frankly his work output is quite exciting to say the least.

Our nation has a clear determination to build our economy worldwide. As one who has lived and worked in south and south-east Asia, I find this period very stimulating. On the Bill specifically, I welcome the powers to call in and the extension to small and medium-sized enterprises. I have a small question: am I right to assume that “small” includes partnerships? I am also not clear what the linkage is with the City of London Corporation, particularly in the remembrancer’s department—that is the corporation’s legal side—and those commercial lawyers specifically dealing with international trade and inward and outward investment. That is something we can look at in Committee.

I have looked at the sensitive areas—all 17 of them. I wonder why the pharmaceutical and chemical industries are still not there. In addition, unsurprisingly as an ex-pilot, I wonder why aviation is excluded. If I added these three there would be 20, but at the moment all 17 will be watched over by this new investment security unit in the Department for Business Energy and Industrial Strategy. That is quite a challenge for those civil servants. I question what we are doing about having a closer link with the Foreign, Commonwealth and Development Office. Our embassies and high commissions could be our eyes and ears if they are properly briefed and if, at the coalface of wherever our representatives are, there is somebody senior who is properly briefed.

I note that there was concern in the Commons, particularly from the chairman of the Foreign Affairs Committee. He tabled new Clause 4, which would have added a framework of factors that the Secretary of State would have to consider when assessing a risk to national security. The chairman of the Intelligence and Security Committee also expressed concern and stated that there was a “scrutiny gap”. Have the Government reflected on the new clause, which was unsuccessful in the Commons, or certainly on the concerns raised? If so, will Her Majesty’s Government respond with their own amendment?

The Government are enthusiastically championing free trade. That is really good and exciting, but I have just one word of warning. There was considerable discussion on the Trade Bill on whether we should not trade with people allegedly committing genocide. The first reaction to that is: yes, correct. However, there are all sorts of allegations of genocide and we need to tread carefully. Far more frequently we have issues of alleged human rights abuses. We had that in the Overseas Operations (Service Personnel and Veterans) Bill and

other Bills. Here in the UK we often see groups of former asylum seekers who seek to get back at the country where they were before with extensive lobbying against that country and any involvement with it. Yes we must have our own high standards, but we must take care not to be overinfluenced by every vested interest or pressure group. Equally, we must avoid a quagmire of mandatory and voluntary notifications, as highlighted by the Global Infrastructure Investor Association. Having said all of that, this is a hugely important Bill for the future of our nation.

5.09 pm

**Lord Harris of Haringey (Lab) [V]:** My Lords, we were all delighted to hear my noble friend Lord Woodley’s maiden speech. I welcome him to your Lordships’ House, and I suspect noble Lords will find him a unique and distinctive voice in this House in the years to come.

I declare my interests as chair of the new National Preparedness Commission, which brings together business, government, academia and civil society, with a purpose of promoting better preparedness in the UK for a major crisis or incident.

The last five years of political discourse have been supposed to be about “taking back control”, allowing this country to make its own decisions and operate independently of other nations—the Minister may recall some of those discussions. However, this is a time of rapid geopolitical change, as US pre-eminence gives way to a multipolar world. China is emerging as a dominant economic power, and the noble Lord, Lord Robathan, described the process by which it is strengthening its world role by ostensibly benign investment. Russia is using hybrid means to maximise its influence, and there are, of course, other nation states that are potential hostile actors. As such, we have little Britain in the world, surrounded by powers that may not be entirely benign.

There is no use taking back control if that independence is a fantasy because other nation states have the ability to control your infrastructure. As the noble Baroness, Lady Noakes, says, such matters as our water supply or financial payments system are not included in the definition of the critical national infrastructure—but we would very rapidly notice if they were compromised or damaged in any way. Of course, it is not just ownership but what goes into the infrastructure: the components. This brings us to Huawei, to which my noble friend Lord Rooker referred, as did the noble and gallant Lord, Lord Stirrup. However, as the latter pointed out, this Bill does not address the concerns that many people had about Huawei.

We have to recognise that we have a growing reliance on ever more complex and interconnected systems, which creates vulnerabilities, as, in critical services, new systems are overlaid on top of legacy systems in a way that, in some cases, is now almost impossible to disentangle and beyond the experience of many of those responsible for running and maintaining them. This creates its own risks, even before you consider the possibility of external threats being placed at the heart of such complex systems and potentially being manipulated by overseas interests.

[LORD HARRIS OF HARINGEY]

Therefore, the Bill is necessary but not necessarily sufficient. Clearly, mechanisms in it need to be proportionate and speedy; I am sure your Lordships' House will return to this in Committee. Similarly, security issues need to be reviewed by the Intelligence and Security Committee, as my noble friends Lady Hayter and Lord West have said. This has to be written into the Bill, so why is it not there? I hope that, when he responds, the Minister will be able to reassure us that this will be corrected by the Government without this House having to intervene.

The other side of this is: we must not stifle research and innovation. However, we have to recognise that cutting-edge research may be precisely the areas where security is most important, so balancing inward investment in that research needs to be looked at very carefully in the context of security and what that cutting-edge research could deliver.

When he introduced the Bill, the noble Lord, Lord Callanan, reminded us of the importance of inward investment, but, of course, with that, there is a form of dependency. If we are talking about a nation that is able to "take back control", we do have to look at these issues, at that form of dependency and at the potential infringement of our security.

My noble friend Lord McNicol talked about the need for an industrial strategy. He is absolutely right: we need to balance our need for external investment with our national security, which means that we need what is fundamentally an holistic and systemic approach to the security of our infrastructure and to inward investment. If having an explicitly named industrial strategy is a step too far for the Minister, perhaps he will at least acknowledge that our approach to these questions should be holistic and systemic. He could tell your Lordships' House how this will be done and who will be responsible for delivering that balance. I am not sure that this Bill provides such an approach, but it is a useful start and step on the journey to taking back control in a meaningful sense.

5.14 pm

**Lord Vaizey of Didcot (Con):** My Lords, it a great pleasure to follow that tour de force from the noble Lord, Lord Harris. I pay tribute to the noble Lord, Lord Woodley, on his excellent maiden speech—I know from having served with him in the other place that he will be a formidable addition to your Lordships' House. I also pay tribute to my noble friend Lord Callanan for all his incredible hard work over many years on so many different trade Bills and trade issues.

I think all of us in this House welcome the National Security and Investment Bill. I recall when I was a Minister looking at the potential implications of the takeover of some of our leading companies by companies from states which were perhaps not aligned with our interests and considering how on earth we would deal with that situation. Of course, I was the Minister who looked after, as it were, Huawei when it was still part of our infrastructure system, so national security is an issue that I have taken a great interest in.

It is quite right to echo what the noble Lord, Lord Harris, was saying. We find ourselves in the 2020s in a very different situation from the one we

were in perhaps 30 or 40 years ago, in that state actors are now able to use corporate entities to prosecute their foreign policy. It is quite right that we are effectively looking at updating the Enterprise Act and creating a framework for national security.

Clearly the balance has to be struck between ensuring that hostile actors do not intervene with some of our greatest companies while not putting off much-needed inward investment. I refer to my entries in the register of Members' interests before I continue with my arguments. It is quite clear from the many excellent speeches during this debate that the Government are now well aware of where the most vigorous analysis of the Bill will take place.

Many noble Lords have made the point that the Bill is drafted in a relatively relaxed fashion at the moment. One can see the combination of civil servants wanting to give Government Ministers the maximum flexibility to react to situations which they perhaps cannot anticipate colliding with very highly paid lawyers who will not want to be sued by their clients and so will give them robust advice to report each and every transaction to the new unit.

Therefore, I think that the bizarrely accurate figure cited by the Government of 1,830 referrals is a woeful underestimate of what is likely to happen when the Bill becomes law. I agree with noble Lords who have said that we are looking at something like 10,000 notifications a year, at least in the first instance. I also share the concerns of those who see normal day-to-day activity, such as research and development partnerships, being caught by this legislation, although I acknowledge, again to echo what the noble Lord, Lord Harris, was saying, that the role of universities in our national security is a crucial one that requires some scrutiny. I also share the concerns that the routine purchase of assets, such as software licences, could also inadvertently fall within the scope of the Bill. The general point has also been made that there is not yet a clear definition of national security in the context of the Bill.

I want to use my time in the Second Reading debate to highlight three issues that I hope to be able to concentrate on in Committee. The first is the proposed sanction of automatic voidness for transactions that are completed in breach of the mandatory filing requirement. It is my contention that significant sanctions should certainly apply in these circumstances, but I understand that there is considerable concern among investors about the practical difficulties that arise if the proposed approach is adopted.

I understand that the Government's position is that the French have a similar system but I understand, certainly in my discussions with experts in this field, that the French system is much more flexible. It seems perfectly sensible to echo what happens, for example, in Australia and the US, so that we have a flexible system of sanctions even when somebody has not complied with a mandatory reporting requirement, so that we will get to a point where the Bill will, I hope, incorporate a voidable power instead of a mandatory voiding.

The other issue is the proposed extraterritorial application of the Government's call-in power to non-UK companies. Again, this power is out of sync with similar

regimes in France, Spain, Germany, Canada and Japan, all of which restrict their transactions to involve targets registered in their jurisdiction. Finally, there is significant concern that the Bill will have a deterrent effect on investment in the UK tech sector, with many of the 17 sectors specified in the Bill being very widely drawn.

I hope that in the short time allotted to me I have highlighted three important areas, which have been highlighted elsewhere. I will not yet get on to the need for parliamentary scrutiny by the Intelligence and Security Committee, which will, I am sure, come up in Committee.

5.21 pm

**Baroness Jones of Moulsecoomb (GP) [V]:** My Lords, I thank my noble friend Lady Bennett for flagging up that I will be speaking about our environmental crisis. I very much enjoyed her speech, particularly the bit about offshore tax havens: that is something that the Government really ought to mop up very fast, because we lose so much money through them.

Several noble Lords have mentioned that it is odd that a Bill titled the National Security and Investment Bill does not even attempt to define or provide any example of what is meant by “national security”. I think the noble Lord, Lord Clement-Jones, was the first to mention that, right at the beginning. Business types might say that not having a definition might be bad for business, because it makes things uncertain. My concern is that it could also be applied far too narrowly, so that the Government do not take the important actions needed when problematic takeovers and mergers are proposed.

We are in a climate and ecological emergency. Parliament has declared this already. Some will try to argue that the Bill should not stray into other issues, such as nature, biodiversity and the environment, but that would be to completely misunderstand the threats we face. The climate and ecological emergency will affect our national security, and global security, for this century and beyond. The Dasgupta review, for example, has warned that humanity must:

“Ensure that our demands on Nature do not exceed its supply”—its sustainable supply, that is. Greens talk about that quite a lot, but somehow the message does not get through. Dasgupta also says that we should adopt different metrics for economic success. That is obvious, because if we are destroying nature, we have to take that into our calculations. Lastly, it says we must:

“Transform our institutions and systems”.

A changing climate will affect everything and put us at war with nature. Rising sea levels will capture large tracts of territory all across the world. Drought will starve populations and spread wildfires. Habitat loss will inflict genocides on millions of species that can never be recovered—and, of course, uncertainty, resource scarcity and hoarding will cause stresses and create mass migrations and military conflict. This shows us how important climate and nature is to our survival.

If we faced this existential threat from any human or country, it would be blindingly obvious that was a national security issue. But I worry that because it is seen as more esoteric and ethereal—perhaps a bit fluffy—the Government will not use their power to ensure that business and investment is controlled to

protect against the huge risks we face. These are not soft issues; they are the hardest and most significant challenges facing our nation and humanity as a whole. The Government must start understanding their role in interfering with ecologically damaging business ventures. We cannot worry about Huawei’s risks to the world wide web when we give a free pass to the thousands of businesses that threaten the world’s web of life.

Undoubtedly, this needs global co-ordination beyond the UK Government. I would be overjoyed if the Minister would give us some plans to address this—for example, by leveraging our presidency of the G7 and COP 26. It would be absolutely incredible and wonderful if we could go into COP 26 with a plan for how to deal with this and get other countries to sign up to it, and understand the danger that we all face.

However, we do not need to wait for global agreement. Our Government should be acting unilaterally as well as bilaterally. The security of our earth impacts the security of all its nations and we have to stop the ecocide. I have two questions for the Minister. First, will he please define national security? Secondly, how does the climate emergency come into that?

5.25 pm

**Baroness McIntosh of Pickering (Con) [V]:** My Lords, I welcome the noble Lord, Lord Woodley, and congratulate him on his maiden speech. I also congratulate my noble friend the Minister on so ably introducing the Bill, with its ambitions to control foreign investment. I welcome the Bill in the broad and in principle, but I would like to highlight a number of points that I wish to explore during its passage.

The United Kingdom has a long and proud tradition of being open to foreign investment. What assessment have the Government made of the impact on foreign investments within the remit of the Bill, especially in terms of British technology and manufacturing sectors?

Both the Law Society of England and the Law Society of Scotland have highlighted a number of issues: in particular, why there is no definition in the Bill of national security. Also, the remit of the Bill is very loose and broad. While I appreciate that this is to be refined by secondary legislation, my noble friend the Minister will appreciate that we have very limited powers to review and scrutinise secondary legislation.

I welcome the consultation; I notice that transport is included within that. However, why have the Government proceeded with the Bill without the results of that consultation being known, processed and put before the House? I understand that the Government will put more detail in the secondary legislation, particularly on the transport aspects. But, once again, there is limited scrutiny over that secondary legislation, whereas if it was on the face of the Bill—as the 17 original sectors are—that would give us more powers to scrutinise and discuss this through its passage.

Like my noble friend Lady Noakes, I would like to ask specifically why the water sector is not covered. The provision of water to households and businesses is a strategic matter. It seems an oversight that it has not been included in the remit of the Bill. There may be a good reason for that, and I should be delighted if my noble friend the Minister would share that with us today.

[BARONESS McINTOSH OF PICKERING]

In principle, I welcome the scope of the Bill and the opportunity we have today, and through its passage in Committee and further stages, to scrutinise it. The full remit of the Bill and particular definitions need to be properly understood. I welcome the opportunity that the passage of the Bill will provide in that regard. With those few remarks, I wish the Bill a fair wind today.

5.28 pm

**Lord Desai (Non-Affl):** My Lords, following the last speaker, I will have to be very inventive in saying anything that is worth saying. First, I congratulate the noble Lord, Lord Woodley, on coming into the House and wish him good luck. We look forward to hearing his views. I will start with his views, given the nature of the national security issue. I will confine myself to the old-fashioned definition of national security, and not the one about biodiversity—I have only six minutes.

National security is something which, if you define it, you lose. It is one of those things you have to keep very general and as undefined as possible, because people will find ways around any definition that is given.

Software rather than hardware is the nature of warfare now. Russia is able to undermine American security, or any kind of security. It no longer has superior weapons; it has superior hackers, and hackers make the difference. It is not manufacturing industry that makes the difference any more; it is not the space race, as the noble Lord, Lord McNally, was saying. We were all quarrelling about Huawei, because what Huawei does by way of software for 5G is going to make more difference to national security than anything solid. So, while I welcome this Bill, it is cast very much in the old mould, when manufacturing industry was important and people used to aggress on each other through it.

I also agree that we should not do anything that restricts the entry of foreign investment into this country. The noble and gallant Lord, Lord Stirrup, said, “Well, if the Bill creates problems, it creates problems, but there are good things and bad things and we should welcome bad things as well as good things because they interact on each other.” Ideally in a Bill of this sort, the first clause would say that national security means whatever the Government decide it means and the second clause would say that the Minister will do whatever the Minister thinks it is essential to do. We would have a good ISC that would keep guard on the Minister and we would make sure that there was parliamentary scrutiny on secondary legislation—but, of course, that is not possible.

The nature of warfare has changed so much that the next war, when it happens, according to an article in yesterday’s *Times*, is bound to be nuclear. There are now so many nations with nuclear power that it is hard to predict which way it will go. So, given that sort of background, we have to be inventive and cautious.

I will say one more thing. The importance of universities is overwhelmingly larger than it used to be. The commercial arms formed by universities are important, but so are the reasons students come to universities. Here again is a dilemma. We ought to have open immigration of foreign students, because

you never know where a bright man or woman will come from. Their knowledge is useful because they interact and things are created. At the same time, we must be very careful that, in regulating universities, we do not kill research. To give one example: the entire nuclear programme was triggered by a bunch of absolutely unpractical theoretical physicists leaving Europe and going to America. They created the first atom bomb, because all they could do was nuclear physics, which was completely unpractical. So nowadays it will be the universities that determine whether we can fight wars efficiently or not.

So, while this Bill is very welcome, the way it is implemented and the way the Secretary of State restrains herself will depend very much on how intelligent, rich and flexible a definition of national security we have. I say to the Government, “Don’t put it on paper. We trust you. Just have a parliamentary committee that will keep tabs on you—and, those two things being given, the rest will follow.”

5.34 pm

**Lord Fox (LD):** My Lords, I thank the noble Lord, Lord Desai, for cheering us all up with predictions of nuclear war. I also congratulate the noble Lord, Lord Woodley, on his maiden speech, and welcome him. Like the noble Lord, Lord Harris, I hope that his distinctive voice will be heard on a regular basis.

No Peer has stood up and said that the pretext of the Bill is wrong—because no one would. But at the end of his speech the Minister said categorically, “This Bill will keep the country safe.” Actually, I think it is the implementation of some of the principles within the Bill that might help keep the country safe; that would perhaps be a less ambitious statement. It is your Lordships’ job—all of us together—to try to make sure that the law of unintended consequences does not overtake the good intentions of the Bill. That will be the challenge, and that should be our purpose.

As the noble Baroness, Lady Noakes, pointed out, there is already a more laissez-faire way of dealing with security issues that the Secretary of State has had for some time—but this Bill proposes a substantial change of gear. That, I can only presume, has been sparked by the Government’s view of a changing geopolitical situation. In fact, it would help the Bill if the Government set out how they see the geopolitical landscape—in other words, what is inspiring this change of gear.

My noble friend Lord McNally suggested that we might be entering a cold war with China. What is the Government’s view on that? With that kind of analysis, understanding the Bill would become a much easier task for the rest of us. As many noble Lords have said, there is no definition of national security. The noble Lord, Lord Desai, made that point, as did the noble Lord, Lord Lansley, and I shall make an observation on that later.

On the wider strategy, we are already seeing elements of what I would call mission creep. The questions that this debate, and the subsequent legislative process, will have to answer are: how much agency do the Government want to exercise in the market, and how do we ring-fence genuine security concerns from a given Secretary of

State's wider industrial economic plans—or do we want to? How can we be sure that future Governments and Secretaries of State will not be more ambitious, or more interventionist, in using the powers that this Government have decided to put in place? That is a big challenge, because it addresses not just what one Secretary of State says, but the future.

As we know, the Bill puts the onus to report on businesses, and on research and finance organisations, and reduces the trigger levels to report transactions. It introduces costs—it must do—and it slows things down; I will come to that later. It also brings smaller transactions into scope than would previously have been the case. It is mildly retrospective and, unlike comparable regimes, it captures domestic transactions and does not include an exemption list.

As noble Lords have said, there are many respectable external voices suggesting that the Bill as drafted could, or would, inhibit investment, and put at risk innovation funding. There is also the scope of the Bill. As we have also heard, there is a separate document outlining 17 sectors of technology, ranging far and wide. Some would like them to range further and wider. There is a consultation, as the Minister set out, and we are looking forward to seeing that more focused document, because it will be very important for the progress of the Bill that we see it.

The list of technologies is extraordinarily wide. Frankly, it would cover almost anything, and we need to see what the focused version will say. But, given that the list is amendable by secondary legislation, and also given the risk that others are very reticent about challenging the secondary legislative process, this is, in effect, a blank cheque. We should also note that, as the noble Lord, Lord Clement-Jones, observed, most technologies have dual use—civilian and security use. This opens up many deals to challenge, which might not be necessary. So this calls into question the methodology, and comes back to the point made by the noble Lord, Lord Lansley, about security risk.

Basically, the Government are seeking to build a comprehensive list of everything—every possible technology—using language that few of us understand. That may be good or it may be bad; we do not really know. So this requires an immense amount of forethought to make the list comprehensive, and it also raises speed bumps in front of all sorts of innocent deals going forward.

The key here is what the technology would be used for. What harm could it cause, or what would losing access to that technology prevent the United Kingdom doing? There is a more methodological approach to this than simply listing everything that could possibly harm us, because that is not possible.

Looking forward, how are the Government going to weigh up the need for the scale-up of technologies? Scale-up organisations need an injection of funds on a regular basis, and delay will be a problem. What is the Government's view on losing control of this technology—potentially to an ally? For example, is it okay for a US company to buy a UK business and carry this technology off to the United States? I have experience with this, and repatriating the technology to the UK after it has been in the US can and has been stopped by the US

Department of Defense. This is not a matter simply of China or Iran; it is a matter of technology moving among our allies as well. We need to understand the Government's view on these kinds of transfers.

We heard from my noble friend Lady Bowles about how this fits in with free trade agreements. Do clauses in FTAs allowing free market activity override the Bill? If the Bill overrides the FTA, what price an FTA? Overall, what is the principal concern here to the Government? Is it losing access, losing control or handing access to someone we do not like—or is it a formula of all three? How does this work? How does the Bill discriminate between each of these?

Then we have the mechanics of reviewing the deal. The CMA is carved out of this, and a new unit is being set up. How will they work together? Who will guide the market on this process, and how? A previous speaker was very clear about the need for this. As noble Lords have said, there will be at least 30 deals a week—actually, it will be more than that—over 17 different complex technology sectors. How is this unit going to handle, sift and manage these sectors? How big will the unit be? What is the budget? What will its relationship be with other organisations across the sector? We need to understand the mechanics of this operation.

The Bill gives the Secretary of State great power to intervene in the market, and it is unclear which of all the assets will be within scope. Universities in particular have a great deal of concern, as the noble Lord, Lord Desai, just mentioned. There is a lot to be said around universities—how they will work with research deals and through scale-ups—as I have already said. It is quite clear, post Brexit and as we are coming through Covid, that the market is very nervous. How will the Government make sure that the essential flow of the right sort of investment into technology continues?

The Bill is being launched into a vacuum. The integrated security review is not there yet; as I have said, we need a better picture of the geopolitical outlook. Furthermore, there is no solid marker on genocide, and we are already hearing it come up here. The Government should and could have allotted time to deal with that in a separate Bill, and they are reaping the whirlwind of not doing that. Of course, there is also no industrial strategy. I firmly believe that work on one is necessary—not so that this Bill can enact industrial strategy but so that there is a separate process. People who want to have an industrial strategy are now wishing it upon this Bill. It is well past time that that discussion was had.

It is inside this vacuum that the Secretary of State will exercise these new quasi-judicial powers, currently with no meaningful parliamentary scrutiny. Free from strategies and unfettered by the nature of regimes, this is a blank cheque. This debate has to work out the constraints for how it will operate. The investment community, space industry, venture capitalists, universities and lawyers—lots of people—have raised legitimate concerns today. Yes, there was a consultation and, yes, there has been some movement, but there is generally much further to travel before the Bill achieves what the Minister set out at the beginning: to make the United Kingdom safer.

5.45 pm

**Lord Grantchester (Lab):** I start by thanking everyone who has spoken in today's excellent debate. It reminds me just how extensive the array of expertise present in the House is, especially from the security, defence, technology and business sectors. I join colleagues in congratulating my noble friend Lord Woodley on his maiden speech. My noble friend Lord West welcomed him as a fellow sailor; I welcome him to your Lordships' House as a fellow Evertonian. I look forward to his further contributions during the Bill's passage.

As my colleague and noble friend Lady Hayter said in her opening reply to the Minister, national security is Labour's top priority, as it should be the first and foremost task of any Government to protect their own citizens. That is why Labour strongly welcomes the Bill and agrees that it is necessary. Inward investment is crucial for businesses across the UK and our economy. It is also crucial that the UK Government have the correct powers in place to scrutinise and intervene on business transactions that could have implications for our national security. It is essential that the balance of the Bill is correct to ensure that it does not deter foreign direct investment, while being certain that national security is protected.

Nevertheless, it is regrettable that, once again, Ministers have acted too slowly in bringing forward these changes. They have acted slowly in comparison with other countries, including the US, Germany and France, all of which have already taken steps to update their legislation in line with evolving security threats. In Committee in the Commons, Charles Parton of the Royal United Services Institute—many have quoted him—said that

“the Government have not really been attending to the problem with the attention that they should, given the nature of the threat, particularly from the Chinese”.—[*Official Report*, Commons, National Security and Investment Public Bill Committee, 24/11/20; col. 5.]

The Government have acted slowly in relation to technological change. It was only last year that artificial intelligence was added to the relevant section of the Enterprise Act. The Government have been somewhat behind the curve in recognising this critical sector, explicitly highlighted by the takeover of DeepMind by Google. Naturally, they have acted slowly again on this Bill. Last January—a year ago—the noble Viscount, Lord Younger, promised that the Government would soon be

“publishing a draft national security and investment Bill, to strengthen the Government's powers to investigate and intervene in business transactions ... to protect our national security”.—[*Official Report*, 9/1/20; col. 438.]

But this—and any pre-legislative scrutiny, as argued for by the Secondary Legislation Scrutiny Committee—never happened. This slowness might have implications for our national security, so we are ready to help the Government pass this legislation as soon as possible and will work on this Bill with all colleagues around the House to achieve this.

I turn now to the Bill. Labour will be seeking assurances in some critical areas. During the debate, a number of common themes have emerged, perhaps five main ones: the scope and meaning of national

security with enterprise policy; the investment security unit workload and the implications of the process on business; competitiveness, risk and agility; intangible assets, IP and algorithms in a networked world, not forgetting fintech. My noble friend and colleague Lady Hayter mentioned an important fifth theme highlighting how we will look for improvements in scrutiny and a greater role for Parliament's Intelligence and Security Committee. This was echoed by my noble friend Lord West. We need to have proper oversight of security issues, to which my noble friends Lord Rooker and Lord Foulkes added their cogent comments.

Returning to the themes, most importantly, Labour will be probing to make sure that the new investment security unit to be set up by the Bill will have the capacity to handle its workload and is properly resourced to help small businesses through the challenges they may face. It is hard to overestimate the extent of this challenge for the new unit. It will have to respond to a large volume of notifications within the tight timeline set out in the Bill. The impact assessment estimates that more than 1,800 notifications will be made each year, and many speakers have wondered how imaginary this number is.

During an evidence session in the Commons, the head of national security for the financial firm, Skadden, Michael Leiter, said:

“I am concerned that no Government are ready for that rate of change.”—[*Official Report*, Commons, National Security and Investment Bill Committee, 24/11/20; col. 41.]

A submission from the Russell Group of universities—I thank the group for its briefing—states: “Research institutions and businesses across the globe require regulatory environments that allow deals to be concluded at pace.” The investment security unit will have to track the development of fast-moving and highly complex technologies, and monitor each of the listed markets. The Secretary of State will have to take decisions on the advice of the unit, which can be challenged in court in the context of highly sensitive information and its wide-ranging powers. The unit will need to develop policy, practice and precedent to provide clarity and certainty to a wide swathe of the economy.

In Committee, it will be important to consider how the new unit is to be sufficiently resourced, have the right skills to monitor a fast-moving landscape and be able to turn cases around fast enough not to hold up possible investments. Many speakers, notably the noble Lords, Lord Bilimoria, Lord Hodgson and Lord Leigh, have defined the Bill as “difficult for business”. We need to probe whether the unit will be sensitive enough to assist SMEs which themselves might not have the capacity to deal with the increased administrative burden being introduced by this new regime. We believe that a specific SME engagement division within BEIS may be needed to assist and support SMEs through the national security screening process. A reporting requirement on the Secretary of State is needed on staff resourcing for the unit.

Another critical consideration will be how cross-departmental working will be assured via the unit, as this will not happen if it is merely siloed away within a department. This cross-departmental independence could



be enhanced, as the Minister said in his opening remarks, through representation of all the relevant departments, Armed Forces personnel, and security and foreign policy expertise. It is interesting to note that the Office for Investment was set up only two days before the Bill was introduced to the Commons. How will this cross BEIS-DIT body work with the investment security unit to ensure overall effectiveness and focus? The Office for Investment will need to inform the department on my third and fourth themes of competitiveness and modern intangible assets, as well as the ISC on security implications. The impact assessment states that

“Geopolitical, economic and rapid technological changes are producing an evolving national security landscape.”

Focusing on geopolitical changes, how will the Bill’s measures fit in with the soon-to-be-published integrated review, of which national security will be a key component?

That will lead us to probe again why the definition of “national security” has been omitted from the Bill—the first and foremost theme throughout the debate. Ministers will argue that there needs to be flexibility—a point on which we are not totally unsympathetic. Nearly all speakers examined the implications of that oversight. The Commons considered that a way forward might be provided by a framework scoping key features, while determining national security and flexibility on a case-by-case basis. We will examine how these possible solutions can be made more transparent, as this will be very important for business.

Finally, although it is important legislation, the Bill does not provide the basis for a more active industrial strategy. However, it suggests it and presents a further opportunity for considerations to be made on bringing forward a more comprehensive industrial policy to support and grow British businesses. My noble friends Lord Rooker, Lord Woodley, Lord McNicol and Lord Foulkes all drew attention to the potential benefits of the enhanced security that this might bring. Let us not make this a missed opportunity. Considering the current levels of unemployment, there is a need to encourage businesses to rebuild and create jobs as the country emerges from the pandemic.

5.56 pm

**Lord Callanan (Con):** My Lords, I thank all noble Lords for their contributions on this important Bill. There is clearly a wealth of expertise on this subject across the House and, as is usual in your Lordships’ House, we have had a thorough and engaging debate, with thoughtful speeches coming from all corners of it.

I start by congratulating the noble Lord, Lord Woodley, on his excellent maiden speech. It is a pleasure to see him in his place today, and I am glad that he has chosen this debate to make the first of what I am sure will be many well-informed contributions. I am glad, too, to have his support for the Bill.

I was contemplating what I had in common with the noble Lord, despite our obvious political differences. We are both from the north, him being from the north-west and me from the north-east; we are both football fans, the noble Lord being a fan of Vauxhall Motors, while I am a fan of Newcastle United; and of course we both have reasons, although different ones,

to be profoundly grateful to Jeremy Corbyn. I wish him well, as I do Vauxhall Motors, which, it seems, was on a fine run of form before being stopped in its tracks by the latest national restrictions. Listening to the comments of the noble Lord, Lord McNicol, it seems that his all-weather football pitch would be particularly appropriate on a day like today.

I will do my utmost to respond to as many as possible of the issues raised, but, as always, my door is open to anyone who wishes to discuss the Bill further as it goes through the House.

I thank the noble Baroness, Lady Hayter of Kentish Town, and the noble Lord, Lord Grantchester, for the constructive tone in which they delivered their speeches. I am glad that a sort of consensus is emerging across the House that the Bill is the right step forward. I even find myself in the very unusual position of having the support of the noble Lord, Lord Rooker, and that self-declared old lefty, the noble Lord, Lord Foulkes—two of my most trenchant critics on other pieces of legislation. These are indeed strange times. I reassure the noble Lord, Lord Foulkes, that I am indeed proud to introduce this Bill, so he can put his mind at rest there.

I turn, first, to the concerns expressed about the investment security unit being within my department and its potential caseload—a point raised by the noble Baroness, Lady Hayter, and other noble Lords, including the noble Lords, Lord Reid of Cardowan, Lord Dodds of Duncairn, Lord Bilimoria, Lord Rooker and Lord Bruce. I assure them and the noble Lord, Lord Grantchester, who also raised it, that the unit will not work in isolation from the rest of government and will not in any way compromise on its duty to put national security first.

When it comes to the operation of this regime, we will not have informational barriers with other government departments. We will work closely with them to ensure that we use skills and experience from right across government. We will, though, have appropriate walls in place with those responsible for promoting investment—some walls but not others. Indeed, other departments and the security services are actively contributing to the design of the unit, thus ensuring that the plans for it take a cross-governmental approach. We have worked closely with our allies around the world on how to create an investment screening process fit for the 21st century.

I reassure noble Lords such as the noble Lords, Lord Bruce, Lord Fox and Lord Rooker, that the unit will be fully resourced to ensure that the Government provide a slick and predictable process for all parties involved. Officials will have a mix of national security, business and casework experience. The noble and gallant Lord, Lord Stirrup, spoke forcefully about the importance of having that mix of expertise, and my noble friend Lord Holmes emphasised that important point.

On the caseload for the investment security unit, I stress that the Government expect a fraction of acquisitions across the economy to be affected by the new regime. Once it beds in and investors become familiar with the process, we expect the number of notifications to decrease further. Of the transactions notified, we expect that fewer than 10% will face a detailed national security assessment and, of those

[LORD CALLANAN]

facing one, only a small proportion will likely result in government intervention. We have been clear that businesses and investors will be encouraged to come to the investment security unit in advance of any formal notification, allowing for early discussions with officials about deals, although any final decision will be for the Secretary of State.

A number of noble Lords raised concerns about the impact of the regime on business investor confidence, including in relation to small and medium-sized businesses—a point made by the noble Viscount, Lord Waverley. Among those who also spoke on that issue were my noble friends Lady Noakes, Lord Leigh of Hurley and Lord Vaizey, the noble Lords, Lord Clement-Jones, Lord Reid, Lord Bilimoria and Lord Bhatia, and the noble Baronesses, Lady Bennett of Manor Castle and Lady Ritchie of Downpatrick. The Government are committed to making the regime work for business. We have already published guidance for business on GOV.UK that sets out how the process is intended to work.

Noble Lords are entirely reasonable to expect further high-quality guidance from government to help businesses and investors navigate the regime. My noble friend Lord Hodgson of Astley Abbots was right to raise that point. On the issue of prepacks, I am pleased that he received my letter in time for this debate and I look forward to further discussions. I know that he has strong views on that subject. That is why we will bring forward further guidance well in advance of commencement to give businesses as much clarity as is meaningfully possible on how the regime will function in practice. We will work directly with businesses and their representative organisations to make sure that we get that guidance right.

More broadly, the Government will never stand in the way of innovative, high-potential businesses setting up in the UK. Our record demonstrates that. Our investment in the British Patient Capital fund has attracted £1 billion of venture capital investment to date and we will continue to invest. By investing alongside the private sector, British Patient Capital aims to support £7.5 billion-worth of investment for British businesses. We have also announced a £7 billion investment in R&D over five years as a first step towards our target to raise total R&D investment to at least 2.4% of GDP by 2027 and 3% in the longer term.

Many noble Lords spoke about introducing a definition of “national security”, including my noble friends Lady Noakes and Lady McIntosh of Pickering, the right reverend Prelate the Bishop of St Albans, the noble Baronesses, Lady Northover, Lady Ritchie of Downpatrick and Lady Jones of Moulsecoomb, the noble Lords, Lord Fox, Lord Clement-Jones, Lord Reid of Cardowan, Lord McNicol of West Kilbride and Lord Bruce, and my noble friend Lord Holmes of Richmond. The Bill does not set out the circumstances in which national security is or may be considered at risk. That reflects long-standing government policy to ensure that national security powers are sufficiently flexible to protect the nation. National security risks are multifaceted and constantly evolving. What may not constitute a risk today may do so in future. I am glad that my noble friend Lord Lansley and the noble

Lords, Lord Truscott and Lord Desai, recognised that point. The ability of the Secretary of State to safeguard national security would be limited if the Bill set out the circumstances in which national security is, or may be considered to be, at risk. By defining what national security is, we would, of course, also define what it is not. This could have grave implications and deliberately show hostile actors where the Government could not intervene. It would also have unintended consequences for other national security legislation.

The noble Baroness, Lady Hayter, and the noble Lords, Lord Grantchester, and Lord West of Spithead, spoke eloquently on the issue of parliamentary scrutiny with a particular emphasis on a role for the Intelligence and Security Committee in overseeing the work of the regime. I am grateful for the discussion that we had with the noble Lord, Lord West, last week.

As I set out in my opening remarks, Clause 61 provides for an annual report to Parliament, which will be crucial in ensuring parliamentary scrutiny of the work of the investment security unit and the broader functioning of the regime. The Government will very much welcome the Intelligence and Security Committee’s review of the annual report. There are of course no restrictions on the committee requesting further information from the unit or the Secretary of State. Parliament will also be able to scrutinise the Statement, as was mentioned by the noble Baroness, Lady Bowles of Berkhamsted.

The former Secretary of State laid a draft of the Statement on introduction in the other place and we would, of course, welcome Parliament’s views on its content. We will carefully consider these views and look to reflect those in the next draft of the document, which will be published for formal public consultation, where the Statement can be fully scrutinised.

Many noble Lords spoke about the sectors subject to mandatory notification, including how they interact with other critical national infrastructure sectors. Considered arguments on this point were made by my noble friends Lady Noakes and Lord Naseby, and the noble Lords, Lord Clement-Jones, Lord Reid, Lord Woodley, Lord McNally, Lord Truscott, Lord Rooker and Lord Foulkes. The list of proposed sectors covered by mandatory notifications has been carefully developed across government, with input from all relevant departments and from the intelligence agencies. Put simply, the Government have sought to identify the sectors where certain types of acquisition could give rise to the greatest risks, while balancing this against the need to minimise the burdens on business.

As I set out in my opening remarks, we are working hard to bring forward regulations in time for your Lordships’ consideration. Some sectors, including water, as raised by my noble friends Lady Noakes, Lord Lansley and Lady McIntosh of Pickering, are part of our critical national infrastructure. However, the Government consider that other safeguards provide sufficient protection to not require their inclusion in the mandatory notification sectors. In the water sector, for example, water supply and sewerage licenses are granted by Ofwat based on an assessment of a potential operator’s managerial, financial and technical competencies. Regardless, the

Secretary of State will be able to call in acquisitions of control across the economy where the legal test is met. As such, not being in a mandatory notification sector does not mean that acquisitions of control over water, financial services or other critical sectors are exempt from the regime altogether.

Given some of the appalling news around at the moment, it was right that many noble Lords spoke forcefully about human rights—my noble friend Lord Robathan, for example—particularly the situation in Xinjiang. As noble Lords will be aware, the Foreign Secretary made a Statement in the other place setting out a series of measures that the Government are taking in response. The Government are gravely concerned about the human rights situation in Xinjiang. There is growing evidence of large-scale forced labour in the region, alongside the use of extrajudicial political re-education camps and severe pressure on religion and culture. We have been clear that we want a mature approach to China and that we must work together to address global challenges, but we will never hesitate to stand up for human rights as a force for good in the world.

Finally, a number of noble Lords raised the question of the effect of the regime on academia and universities, citing concerns raised by the Russell group. These included the noble Lords, Lord Clement-Jones, Lord Reid of Cardowan, Lord Bilimoria, Lord Desai and Lord Grantchester, and the noble Baronesses, Lady Bowles of Berkhamsted and Lady Ritchie of Downpatrick. I assure them that my officials have been engaging closely with the Russell group; we will continue this engagement as the Bill goes through the House to ensure that universities have smooth engagement with the new regime where necessary.

I thank all those who have spoken today and reiterate what I said in my opening remarks: this Government will always be absolutely committed to the free flow of trade and investment. The Bill does not change that; rather, it is a vital upgrade to our current powers that will keep the British people safe. I look forward to discussing it further in Committee but, for now, I commend it to the House.

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

6.10 pm

*Sitting suspended.*

## Health Measures at UK Borders

### *Statement*

*The following Statement was made in the House of Commons on Wednesday 27 January.*

“With permission, I would like to make a Statement. First, I want to begin by echoing the Prime Minister’s remarks. The scale of the suffering that this virus has inflicted is truly heart-breaking, and my thoughts are with those who have tragically lost loved ones.

Yesterday, when I addressed the House, I said that the Government’s focus was on protecting the UK’s world-leading vaccination programme—a programme that we should be proud of—and reducing the risk of

the new strain of the virus being transmitted from someone coming into the UK. Yesterday, the Foreign Office announced support for more countries to access the UK’s world-leading gene sequencing capabilities to increase early identification of any new strains of the virus. This is a vital step forward to support the global response to coronavirus, but it is simply not enough on its own to reduce risks to the United Kingdom.

It is clear that there are still too many people coming in and out of our country each day. Today I am announcing further action to strengthen the health measures that we already have at the border, in order to reduce passenger flow—so that only the small number of people for whom it is absolutely essential to travel are doing so—and therefore reduce the risk to our world-leading vaccine programme.

For those entering the UK, there will be a number of measures. First, the police have stepped up checks and are carrying out more physical checks at addresses to ensure that people are complying with the rules on self-isolation. Secondly, we will continue to refuse entry to non-UK residents from red list countries that are already subject to the UK travel ban. Thirdly, as the Prime Minister has said, we will introduce a new managed isolation process in hotels for those who cannot be refused entry, including those arriving home from countries where we have already imposed international travel bans. They will be required to isolate for 10 days, without exception. The Department of Health and Social Care will set out further details on this approach next week.

For those travelling out of the UK, we will also be enhancing and stepping up enforcement of the rules, because despite the stay-at-home regulations, we are still seeing people not complying with the rules. The rules are clear: people should be staying at home unless they have a valid reason to leave. Going on holiday is not a valid reason.

We will introduce a new requirement so that people wishing to travel must first make a declaration as to why they need to travel. This “reason for travel” will be checked by carriers prior to departure. That approach effectively mirrors the checks on arrivals that are already in place with the passenger locator form. Secondly, working with policing partners, we will increase the police presence at ports and at airports, fining those in breach of the stay-at-home regulations. Anyone who does not have a valid reason for travel will be directed to return home or they will face a fine. Thirdly, we will urgently review the list of travel exemptions to make sure that only the most important and exceptional reasons are included.

These are crucial new measures to protect us all. They also complement the robust action that we have consistently taken at the border. While these new measures are being operationalised, I would like to remind anyone seeking to enter our country to comply with the rules. This includes providing evidence of a negative Covid test before entering the United Kingdom, self-isolation on arrival for 10 days and the completion of the passenger locator form. Immediately stepping up enforcement means that if someone does not follow the regulations, they will face a fine.

[LORD CALLANAN]

These new measures at the border are a necessary step to protect the public and our world-class vaccination programme. Every layer of protection that we have put in place will help to reduce the risk of transmission of this virus and any new potential strain from entering the UK. As we have done throughout this global health emergency, we will continue to take all steps necessary to protect the public and help prevent the spread of the virus. I commend the Statement to the House.”

7 pm

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, as of yesterday, more than 109,000 people in the United Kingdom have died because of Covid-19. We mourn all those lost and think of their families, for whom life will never be the same again. We must learn from past mistakes. Rather than being world-beating or world-class, we have the highest death rate in the entire world, with, on average, more than 1,000 people dying each day. It is a shameful and tragic figure.

Right from the start of this pandemic, we have had too little, too late; we have ignored the problem, denied the problem and then panicked and made a U-turn. We all know the Prime Minister is not a man for details or consistency. We were told we were going to build a world-beating test and trace system. He told the country that we would turn the tide by June, then in July, he said that there would be a significant return to normality by Christmas. When the leader of the Opposition suggested a two-week circuit break, he was mocked by the Prime Minister, only for the Prime Minister to do exactly what he called for weeks later and weeks too late. And then there was the dreadful performance when he accused the leader of the Opposition of wanting to cancel Christmas, only to announce new restrictions on 19 December. The Prime Minister has ignored medical advice and there has been error after error, which has cost many lives.

Let us be clear: the vaccination programme is going well because of the fabulous NHS, the GPs, other health professionals, the military, the police and the volunteers who are working to get the country vaccinated. We thank them for their brilliant work. No contracts have been awarded without proper tendering procedures and no companies have been mysteriously formed and given millions of pounds without obvious identifiable experience or a track record in the area in question.

One key area where the Government have clearly fallen short is on protecting our borders. The measures outlined are another example of too little, too late. Limiting hotel quarantine to countries from which travel by non-EU residents was already banned means that the Home Secretary’s proposals do not go anywhere near far enough.

Mutations of the virus are undermining the efficiency of the vaccines and threatening life and hope. We cannot know where a mutation will emerge next. The truth is that the Government are once again behind the curve. This announcement is too limited. It leaves huge gaps in our defences against emerging strains. We know that strains that emerged in South Africa and Brazil have already reached these shores—that is little wonder given that the controls have been so lax, with just three in 100 people quarantining having been

successfully contacted, and with border testing introduced only 10 months after the first lockdown. Even then, the start had to be delayed because the Government could not get the necessary systems in place.

Can the Minister tell the House how we can be assured that travellers will not arrive with emergent strains via countries that are not on the control list? What support has been made available to ensure improvements in quarantining compliance and the Isolation Assurance Service? Why has it taken so long to step up checks, when we know that the system has been failing for months? What discussions have taken place with hotel chains to ensure the availability of rooms? How often will the list of red list countries be reviewed and updated? Will it be based purely on the country of risk or on the capacity of UK quarantining facilities?

Travellers arriving in Scotland from any country outside the British Isles will be forced to quarantine in a hotel, whereas in England, only travellers from the red list countries will be required to quarantine. Does the Minister accept that the greatest barrier to a four-nation approach is the Westminster Government dragging their feet? For those people travelling out of the country, why is enforcement being stepped up only now?

**Lord Paddick (LD) [V]:** My Lords, the Government’s approach to border biosecurity appears to be all over the place. They previously had travel corridors in place, but they then scrapped these and imposed the requirement of a negative Covid test and 10 days’ quarantine on all arrivals into the UK, unless travellers pay for an expensive test-to-release scheme, where a further negative test five days after arrival in the UK can shorten the quarantine. Enforcement of these rules appears to be lax, to say the least.

The Government also introduced travel bans on direct flights and on non-UK citizens travelling from countries where the variants first identified in Brazil and in South Africa are prevalent, including Portugal, where many flights from Brazil arrive into Europe. The reason the Government gave was that this was on the basis that further research needed to be carried out on these variants to establish whether they were more contagious, more dangerous and more vaccine resistant. How closer are the Government to answering these three questions about the new variants and what criteria will need to be met on how contagious, dangerous or resistant they are before a decision can be made as to whether these restrictions can be lifted or varied?

The Government say that they are going to introduce compulsory hotel quarantine on UK nationals arriving from these so-called red list countries. How many rooms will be required? UK Hospitality, the trade body representing the country’s hotels, said yesterday that it had no information on how the system might work, and leading hotel chains around Heathrow told PoliticsHome that they have not been contacted to assist with any type of scheme. When will the scheme be in place?

Her Majesty’s Official Opposition are calling for all arrivals into the UK to face compulsory hotel quarantine. The argument appears to be that, as the noble Lord, Lord Kennedy of Southwark, has said, new Covid variants could occur anywhere in the world. However,

Labour want the existing list of exemptions from quarantine on arrival into the UK to be maintained. This includes, for example, workers who travel at least once a week into and out of the UK.

Sir Keir Starmer said yesterday that 21,000 passengers arrived in the UK on Monday. What are the Government's estimates of the hotel capacity required were all arrivals into the UK to face compulsory 10-day hotel quarantine? Taking the example of Australia, which has adopted such a policy, there are hundreds of thousands of Australian nationals unable to return home because of limited Covid-safe hotel capacity or because they cannot afford the cost of compulsory hotel quarantine. Do the Government expect similar problems here in the UK?

What consideration have the Government given to, at the very least, extending their ban on direct flights or on non-UK nationals from entering the UK, and extending their compulsory hotel quarantine policy for UK nationals, to include countries where there is no rapid genomic sequencing capacity? There, a new or existing Covid variant is unlikely to be identified quickly enough to prevent infections in the UK.

How much of a risk do travellers from outside the UK actually present? In the light of the high level of infections in the UK, both in terms of total numbers and as a proportion of the population, what is the probability that a new, more contagious, harmful or vaccine-resistant Covid variant will result from a mutation of the virus within in the UK, compared with the probability that this will occur in a country with few or no Covid infections? Is the recent E484K mutation of the variant first identified in Kent, that is similar to the variant first identified in South Africa, an example that the threat of dangerous mutations lies as much, if not more, within the UK as it does overseas?

Taking the examples of Australia, New Zealand, the Isle of Man or even Norway—where I am speaking from now—where Covid infections are low or non-existent, test and trace is effective, and where there is rapid genomic sequencing capability, what is the reasoning behind quarantining arrivals from such countries when they arrive in the UK. In short, what is the basis for the Government's strategy towards border controls—if they have one? It certainly does not seem to be based on either science or common sense.

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** I thank both noble Lords for their comments. I join the noble Lord, Lord Kennedy, in mourning the 109,000 people who have died. It is a terrible time, and our hearts go out to their families. Both noble Lords asked a series of interesting questions. I say from the outset that the strategy is based on two things. One is reducing transmissibility; the second is suppressing any new variants. The noble Lord, Lord Paddick, asked a very interesting question about the probability of a new more deadly virus, both from without and within the UK. That is a question that nobody can answer until it actually happens, because viruses mutate all the time: some in a weaker form, some in a stronger form. We know that new variants that we have seen recently are more transmissible, not necessarily more deadly, but suppressing new variants because of the danger that the noble Lord talks about is absolutely the right thing.

I do not agree that we have got the strategy wrong, or that the strategy has been all over the place. All along, the strategy has been guided by the science. The noble Lord, Lord Kennedy, makes accusations about the Prime Minister. We do not often have spats like this, but his right honourable friend Keir Starmer has been heard to say he mourned the passing of our use of the European Medicines Agency. Thank goodness we did not follow the Opposition's strategy. The noble Lord also talked about how pleased he was about vaccinations. It is absolutely incredible: over 10 million people vaccinated. In terms of the vaccines' interaction with the new variants, we think from results so far—although it is quite early to tell—that there is still some protection from some of the new variants we have seen.

All along, we have followed the FCDO advice. The regulations and powers that we have been making under the Coronavirus Act have come regularly. One thing to be borne in mind is that we have reduced travel by 90%, and of course self-isolation as a practice has been in place since last year.

With regard to review of the red countries, countries are of course under review all the time. In Scotland, the noble Lord, Lord Kennedy, was saying, everyone has to isolate. That is as may be, but we think the strategy we are employing is absolutely the right one.

It is important that we reduce the risk by reducing the number of people who enter the country who could be a new threat in terms of the variants and mutations, as I have said. We have already implemented numerous measures and protections to reduce that risk, but of course, last week new additional levels of protection at our disposal were announced. Some are forthcoming regarding hotels, as noble Lords have said. I understand that the DHSC will be leading on that and announcements will be made in due course.

I understand that the IS will be checking more than 5,000 people coming into the country and will contact all those who have arrived 10 days prior, as it has been doing and naturally has been asked to do, with regard to self-isolation. There will be an increase of about 1,000 targeted follow-up visits a day from that enhanced police presence at ports, borders and airports.

On enforcement, I understand that, as there have been, there will be fines for not complying with this, and of course the enforcement being done by police and Border Force will be stepped up. Capacity in hotels is a piece of work that DHSC will be carrying out.

I understand the question from the noble Lord, Lord Paddick, about compulsory 10-day quarantine in Australia. That has been very effective there but of course, Australia has some features that are entirely different from ours and which make it easier for people to quarantine.

The noble Lord also asked about countries with no genomic sequencing, which I thought was an interesting point. We are lending our expertise to countries to help them with their genomic sequencing because, of course, this is a problem not just for the UK but for the entire world. Genomic sequencing capabilities that help us will help the rest of the world.

**The Deputy Speaker (Baroness Barker) (LD):** We now come to the 30 minutes allocated to Back-Bench questions. I ask that questions and answers be very brief so that I can call the maximum number of people.

7.18 pm

**Lord Balfre (Con):** My Lords, I am sure we all support the Minister in what is a very difficult job. The Statement says that people should be staying at home unless they have a valid reason to leave, and that going on holiday is not a valid reason. I could not agree more; that is absolutely right. However, I ask the Minister to realise that there are some legitimate reasons why people need to travel. If I heard correctly, the noble Lord, Lord Paddick, is in Norway at the moment, presumably because he has a very good reason to be there.

I wish to ask the Minister two questions. The Statement says:

“We will introduce a new requirement so that people wishing to travel must first make a declaration as to why they need to travel. This ‘reason for travel’ will be checked by carriers”.

When will this come into force and will it be available online? It says, “checked by carriers”, so presumably the carriers will be given some guidance. Can the Minister clarify whether the result of a negative lateral flow test done by the NHS is acceptable when presented to Border Force as proof that the bearer is not infected and therefore eligible to travel?

**Baroness Williams of Trafford (Con):** My Lords, guidance is always issued when the rules change, and it is absolutely right that it would be issued in this case. The noble Lord is absolutely right: the rule is to stay at home unless there is a legitimate reason to leave. Of course, some people do have legitimate reasons to leave and I know that he is one of them.

NHS tests cannot be used for predeparture travel purposes, and it is not because of the type of test—for example, the lateral flow test. It applies to any NHS test, and that is because we believe that the NHS testing capacity should be used for health purposes and not for the purposes of travel. However, I take his point about the necessity of him having to travel. Protecting public health remains our top priority and we need to reduce the risk of importing Covid. All business is important, but we acknowledge that a high proportion of work can be done online—not his, I know—and people should limit travel where possible to essential journeys. I am afraid that exemptions from the self-isolation passenger information and predeparture testing requirements will not apply to business travel. A limited number of jobs qualify for exemption, which are vital to maintaining the flow of critical goods, protecting essential services, protecting national security or facilitating government work.

**Viscount Waverley (CB):** My Lords, would the Minister give her insight into the extraordinary delays at border control at Heathrow, where a three-hour wait was recently recorded in inappropriate lines? I do not wish to pour cold water on the Government’s strategy under what are extremely difficult circumstances. I should at this stage remind the House that I am resident in Portugal. Why are the Government focusing on quarantine hotels as a solution when the technology, testing and vaccine

capability is readily available to deploy digital travel passes, and in the process create safe travel routes, open up airports, and reboot the airline sector? Can any indication be offered as to how long the hotel quarantines will go on for? I am informed that the ICC AOKpass scheme is successfully operating between Rome and New York. That organisation stands ready to work with the Government to test the process on an international route, and I am sure that it would welcome hearing what contribution it could make to help the Government in this area.

**Baroness Williams of Trafford (Con):** I thank the noble Lord for his suggestion. Of course, the Government are open to any suggestions that might make the process more efficient. In response to his question about how long this will go on for, we are completely guided by the numbers. Obviously there have been very pleasing developments recently—the numbers are going down. The noble Lord is absolutely right that technological advances are always very useful in this regard. As to the three-hour wait, even though air travel is 90% down, I suspect that the reason for the wait to which the noble Lord referred was because of the step-up in checks and procedures at the border.

**Lord Clark of Windermere (Lab) [V]:** My Lords, the Minister has a well-earned reputation of being very assiduous, and she has shown that today in answering the questions. May I test her a little further? In a nutshell, on 27 January, the Home Secretary, when she was announcing that we were going to have to tighten up our borders, said that there were “too many people coming in and out of our country each day.”

That was eight days ago and, as I understand it, we might have to wait another 10 days before the Government’s new policy is implemented. I know that the Government—and especially the Minister—are very thorough, so can she give me some advice about the Government’s estimate of the number of individuals who enter this country every day who may be carrying the disease and how that will mount up over the days? How can the Government justify taking so long to implement this new policy?

**Baroness Williams of Trafford (Con):** I thank the noble Lord for his question. It is very nice to see him after so long; I have not seen him for ages. My right honourable friend the Home Secretary did say that too many people were going in and out of the country, which helps to spread the virus and risks new variants going in and out. I have a very old figure for the percentage of individuals who may be carrying the virus into the country, but I suspect it is out of date. That figure is 2%, but I am going back nearly a year now. If it is wrong, I will give the noble Lord a more up-to-date figure. I suspect it is not correct now.

Why are the quarantine hotels taking so long? I presume that was the question. It is a DHSC matter, and it has to procure the hotels and put Covid-secure arrangements in place for people to quarantine. Some of the arrangements in Australia are incredibly stringent.

**The Deputy Speaker (Baroness Barker) (LD):** We have a technical problem with the noble Lord, Lord Bradshaw, so the next speaker will be the noble Lord, Lord Lancaster of Kimbolton.

**Lord Lancaster of Kimbolton (Con) [V]:** My Lords, I confess to being taken aback by the opening comments from the noble Lord, Lord Kennedy—so full of inappropriate political opportunism and so out of character for the noble Lord. The Government are right to take the layered approach that my noble friend outlined. A dynamic, agile risk assessment should mean that we find the balance between controlling the virus and protecting the economy. I ask my noble friend what consultations the Government have had with the overseas territories to maintain air corridors, particularly in light of our obligations to support urgent medical evacuations.

**Baroness Williams of Trafford (Con):** I thank my noble friend for that question about negotiating with the overseas territories. Commercial flights continue to maintain direct air links with the Cayman Islands, Bermuda and Gibraltar. Special chartered flights from St Helena, arranged in conjunction with its Government, have provided a direct link during the pandemic, allowing people to travel to the UK for medical treatment. Military flights continue to provide access to the Falkland Islands and Ascension Island. I am pleased to say that the FCDO has been supporting the overseas territories throughout the pandemic. As of today, with the support of partners across government, we have delivered vaccines to nine territories. That is good news and returns to my earlier point about this being a problem for the whole of the world.

Since 18 January, all travel corridors for people arriving in England were suspended. Since travel corridors were introduced, we have constantly kept the risk factor of individual countries under review and have, at this point, decided it is necessary to restrict international travel, as critical analysis shows that the risk of transmission from Covid is still too high. Exemptions from self-isolation requirements to enable individuals travelling to the UK to attend medical treatment remain in place, and air ambulances are exempt from travel bans for high-risk countries, allowing urgent medical evacuations to take place.

**Baroness Falkner of Margravine (CB) [V]:** My Lords, I want to press the point from the noble Lord, Lord Clark, about the numbers coming in while we have this ongoing delay—eight days now. We also heard in the Minister's opening remarks that approximately 21,000 people came in either yesterday or the day before. The maths are simple: this means that, over those eight days, there have been 160,000 people. The problem with not quarantining in hotels is that these people potentially travel around the country, using public transport and spaces, shopping and buying food; in other words, potentially spreading the virus. The Minister may take comfort from the fact that they may have had Covid tests, but the authenticity and accuracy of Covid tests is an open question in many countries, where people are still allowed in.

**Baroness Williams of Trafford (Con):** I apologise to the noble Baroness and to the noble Lord, Lord Clark, because I do not have figures before me, but she is absolutely right about people coming to this country and travelling around, which is why these quarantine measures are so much needed and why checks at the borders and enforcement have been stepped up.

**Baroness Ludford (LD) [V]:** My Lords, my noble friend Lord Paddick mentioned Norway. Have the Government considered emulating the successful Norwegian system, whereby only nationals and those with legal residence are allowed into the country at all, there is testing of everyone on arrival and seven days later, paid for by the state, and of course there is an excellent test and trace system? If the Government have not considered copying such a system, why not? May I just correct the Minister and, indeed, the Prime Minister on another matter? Being under EU law and the European Medicines Agency in the transition period could not and, indeed, did not prevent the UK doing its own thing on vaccines, as it took advantage of a national derogation.

**Baroness Williams of Trafford (Con):** My Lords, I think it is fair to say that we were being pressed last year to go with the EU in its vaccination programme and we said no, and it was the right thing to say no. I am not going to harp on and make political points, but we did the right thing at the right time. I do not say that from a position of carping: we did the right thing at the right time; we procured at the right time; it was absolutely the right thing to do and we should be really proud of that.

**Baroness Gardner of Parkes (Con) [V]:** My Lords, I congratulate the Government and all in the National Health Service, whether staff or volunteers, on the marvellous rollout of the vaccine programme: thank you for all the hard work. Last week, during the repeat of the Covid update Statement in this House, I asked the Minister some questions about the proposal to use quarantine hotels. The response was that further details would follow this week. I am therefore asking once again, as I find the proposals on quarantine hotels set out in this Statement appear more watered down than those the Prime Minister spoke about on 27 January.

I know that Australia has been using this system of quarantine hotels for some time, and now it has quite a high profile, with the Australian Open tennis players in isolation in hotel quarantine at the moment. What are the plans for quarantine hotels here and who is it envisaged will use them? This Statement refers to their being only for those who “cannot be refused entry.” Given that the noble Baroness, Lady Harding, tells us in the track and trace report that only 60% of people isolate when asked to do so, should not all travellers to the UK be made to quarantine in hotels on arrival, to ensure isolation?

In addition, I understand that travellers are also going to be asked to make a declaration as to their reason for travel, and that is going to be checked by the carriers. I drew attention recently to the fact that in Australia they are now reporting problems with people pretending to come from other parts of the country, where they have not come from at all, in order to be untraceable. Will the Government confirm that there will be a penalty for carriers and travellers alike, as such a declaration about where you have come from can be effective only if the carriers refuse to transport people not travelling for legitimate reasons, and this cannot be just a ticking of the box exercise? We have also heard a lot in the press about private jets being used to circumvent restrictions. Will the same rules apply to them and how will these be enforced?

**Baroness Scott of Bybrook (Con):** I ask the noble Baroness to finish. Thank you.

**Baroness Williams of Trafford (Con):** My Lords, in light of increasing concerns around new variants, mandatory quarantine measures for those arriving from high-risk countries are the next essential step to safeguard public health. It is also crucial that those who wish to travel to the UK from high-risk countries do so in full knowledge that our overwhelming priority is to protect the health of the population. The fact that not all travellers will be quarantined should be seen alongside other measures. It is illegal to leave home, including to travel abroad, except for a limited set of reasons. Where travellers enter the UK, there are strict isolation measures in place to prevent onward transmission, and the Government will apply quarantine measures in respect of travellers coming from high-risk destinations. We are working urgently to finalise the details of our quarantine plans. I can confirm that operators face a fine of £2,000 for each passenger conveyed to England without proof of a negative result, and £2,000 for each passenger conveyed to England without a completed passenger locator form. These requirements apply to all inbound passengers to England.

**Baroness Wheatcroft (CB) [V]:** My Lords, those arriving in the UK are obliged to provide a polymerase chain reaction test. However, as the noble Baroness, Lady Gardner of Parkes, pointed out, only 60% of those people go on to obey the self-isolation rules. Can the noble Baroness therefore explain how we are making sure that people arriving and handing over their PCR tests are providing genuine evidence that they do not have the virus, rather than making use of the enterprising people already forging these certificates and charging significantly less than the official rate?

**Baroness Williams of Trafford (Con):** My noble friend makes a very good point, because there has been a lot of fraudulent and scam activity around the coronavirus. The only thing this leads to is misery, because if you produce a false test—a false certificate to say that you have had a negative test—you put yourself and others around you in danger. I am sure that our good Border Force has measures in place at the border to try to spot some of this fraudulent activity. In relation to compliance, we have stepped up some of the enforcement measures and the follow-up work to ensure that people are self-isolating, and we are also checking more people at the border.

**The Deputy Speaker (Baroness Barker) (LD):** I call the noble Lord, Lord Bradshaw.

**Lord Bradshaw (LD) [V]:** Speaking—[*Inaudible*].

**Baroness Scott of Bybrook (Con):** Lord Bradshaw, could you please ask your question?

**Lord Bradshaw (LD) [V]:** Pardon? [*Inaudible*].

**Baroness Scott of Bybrook (Con):** I suggest that we move on to the next speaker.

**The Deputy Speaker (Baroness Barker) (LD):** I call the noble Lord, Lord Hunt of Kings Heath.

**Lord Hunt of Kings Heath (Lab) [V]:** That was exciting, my Lords. Can the Minister say what the delay is in putting the hotel quarantines together? The Government have known about the problem of the variant in South Africa for weeks—since well before Christmas. They have been advised by SAGE and NERVTAG about the need to take action, yet this morning we heard from the chief executive of the Best Western hotel chain, which has global experience of running these operations, that there has been virtually no detailed discussion with that company—or, I assume, with other companies. What on earth is the delay?

**Baroness Williams of Trafford (Con):** My Lords, as I have said, this is a DHSC lead matter, but that does not mean that I will try to evade answering the question. I imagine that some of the procurement activity that is taking place—making those hotels Covid secure—is a challenge. I can say, however, that the Government are working as hard as we can to get these hotels up and running as quickly as possible.

**Lord Randall of Uxbridge (Con) [V]:** My Lords, despite what many seem to think, this is extremely complex. I have a great deal of sympathy for those trying to find a way through this hugely difficult problem. One thing I am struggling with is how it is possible to identify transit and stopover passengers arriving in this country who are originating from high-risk areas. Are we just relying on the honesty of those passengers filling in their locator forms accurately?

**Baroness Williams of Trafford (Con):** Obviously, there are travel bans from certain countries, but in terms of transit—which is what the noble Lord is talking about—we ask anyone who arrives at our borders to fill in the forms. We do follow up on those forms and we are, to some extent, relying on the good will and honesty of people in doing so. People will always try to find a way around the system, but I think we are relying on people's honesty to a certain extent.

**Baroness Stuart of Edgbaston (Non-Afl) [V]:** My Lords, it seems that international arrivals in the United Kingdom will be under certain common rules. Will the Minister make sure that, in her discussions with the devolved Administrations, we do not end up with a system of divergence just for divergence's sake? If we have compulsory quarantine requirements, surely they ought to apply in the same way to the whole of the United Kingdom if they are underpinned by rational scientific decisions.

**Baroness Williams of Trafford (Con):** I think the noble Baroness makes a really good point. We might be four nations, but we should be acting as one nation. That is the most effective and efficient way to try to control the virus and save lives.

**Lord Dholakia (LD):** My Lords, the noble Lord, Lord Clark of Windermere, was right in pinpointing the difference of opinion that seems to exist between what the Home Secretary has said and what the Prime Minister says in this Statement. Could the Minister tell us whether the Home Secretary has full confidence in this Statement, after the comments the noble Lord, Lord Clark, made earlier?



According to the Statement, police have stepped up their action—quite rightly so, nobody disputes that—but how do we ensure that this does not have an adverse impact on BAME communities, as research has repeatedly shown about this type of contact with the police? What mechanisms exist to make sure that people can appeal against some very heavy fines? I do not believe that many students who receive fines of up to £2,000 or £10,000 have any capacity to pay that sort of money.

**Baroness Williams of Trafford (Con):** I think there should be a principle we accept that if people are fined, they have been not only acting against the law but putting the lives of other people in danger. I take the point about students being able to pay fines, but there is an obligation on each and every one of us to keep each other safe. On the noble Lord's point about the BAME community, there is obvious evidence that the community is suffering more in terms of symptoms and illness than the population at large. The way in which we all behave has an effect on the well-being, or otherwise, of our BAME friends in this country.

**Baroness Warsi (Con) [V]:** My Lords, I start by paying tribute to my noble friend the Minister, who has been working a gruelling schedule in very difficult circumstances for many months now. Much of what I was due to raise has already been raised by my noble friends Lady Gardner of Parkes, Lady Wheatcroft and Lord Randall, but may I press my noble friend? The Government announced the new rules about overseas travel on 4 January, some five weeks ago, yet it still does not seem clear what current checks are in place to ensure that those travelling to and from the UK are doing so only for necessary and essential travel. Does she, for example, have any figures on how many passengers have been prevented from boarding flights since the new criteria were introduced? What are the checks to

ensure that the passenger locator forms are accurately and truthfully completed, so that the system we have in place is effective?

**Baroness Williams of Trafford (Con):** My noble friend is right about the importance of the passenger locator forms being accurate and people being honest, and of some of those follow-up checks, with enforcement if necessary. As I said to earlier speakers, those checks are being stepped up. People are flouting the rules because they do not think they apply to them. As the noble Lord, Lord Kennedy, said, 109,000 people have died, and it is very important that people stick to the rules so that we can protect the NHS and save lives.

**The Deputy Speaker (Baroness Barker) (LD):** Finally, with any luck, I call the noble Lord, Lord Bradshaw.

**Lord Bradshaw (LD) [V]:** I wanted to ask the Minister whether the rules apply to general aviation as well as to ordinary civil aviation.

**Baroness Williams of Trafford (Con):** I think so. The noble Lord has tried to get in three times now, and he has asked me a question that has slightly flummoxed me. May I write to him?

**Lord Bradshaw (LD) [V]:** It seems to me that there may be a gap there.

**Baroness Williams of Trafford (Con):** Okay; I will check that out and get back to the noble Lord.

**Lord Bradshaw (LD) [V]:** Thank you.

**The Deputy Speaker (Baroness Barker) (LD):** That was worth waiting for.

*House adjourned at 7.47 pm.*



## Grand Committee

Thursday 4 February 2021

The Grand Committee met in a hybrid proceeding.

### Arrangement of Business

Announcement

2.30 pm

**The Deputy Chairman of Committees (Baroness Watkins of Tavistock) (CB):** My Lords, the hybrid Grand Committee will now begin. Some Members are here in person, respecting social distancing, while others are participating remotely, but all Members will be treated equally. I ask Members in the Room to wear a face covering except when seated at their desk, to speak sitting down and to wipe down their desk, chair and any other touch points before and after use.

The microphone system for physical participants has changed. Your microphones will no longer be turned on at all times, in order to reduce the noise for remote participants. When it is your turn to speak, please press the button on the microphone stand. Once you have done that, wait for the green flashing light to turn red before you begin speaking. The process for unmuting and muting for remote participants remains the same.

If the capacity of the Committee Room is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. If there is a Division in the House, the Committee will adjourn for five minutes.

A participants' list for today's proceedings has been published by the Government Whips' Office, as have lists of Members who have put their names to the amendments in, or expressed an interest in speaking on, each group. I will call Members to speak in the order listed. Members are not permitted to intervene spontaneously; the Chair calls each speaker. Interventions during speeches or "before the noble Lord sits down" are not permitted. During the debate on each group, I will invite Members, including Members in the Grand Committee Room, to email the clerk if they wish to speak after the Minister, using the Grand Committee address. I will call Members to speak in order of request and will call the Minister to reply each time. The groupings are binding and it is not possible to de-group an amendment for separate debate.

Leave should be given to withdraw amendments. When putting the Question, I will collect voices in the Grand Committee Room only. I remind Members that Divisions cannot take place in Grand Committee. It takes unanimity to amend the Bill, so if a single voice says, "Not Content", an amendment is negated, and if a single voice says, "Content", a clause stands part. If a Member taking part remotely wants their voice accounted for if the Question is put, they should make this clear when speaking on the group. We will now begin.

### Non-Domestic Rating (Lists) (No. 2) Bill

Committee

2.33 pm

Clause 1 agreed.

**The Deputy Chairman of Committee (Baroness Watkins of Tavistock) (CB):** We now come to the group beginning with Amendment 1. I remind noble Lords that anybody wishing to speak after the Minister should email the clerk during the debate.

#### Amendment 1

Moved by **Lord Kennedy of Southwark**

**1:** After Clause 1, insert the following new Clause—  
"Statement on consultation with the Valuation Office Agency and local authorities

Within one month of the passing of this Act, the Secretary of State must publish a statement detailing how the Valuation Office Agency and local authorities were consulted in relation to the provisions of this Act prior to its passage."

Member's explanatory statement

This new Clause would highlight the need for the Government to work closely with the Valuation Office Agency and local authorities by ensuring that the Government details how they worked with them in relation to the provisions of this Bill.

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, as this is my first contribution, I draw the attention of the Committee to my relevant registered interests: as a vice-president of the Local Government Association, chair of the Heart of Medway Housing Association and a non-executive director of MHS Homes Ltd.

Amendment 1 would put on the face of the Bill a new clause requiring the Secretary of State to publish a Statement setting out

"how the Valuation Office Agency and local authorities were consulted in relation to the provisions of this Act prior to its passage."

A property's rateable value, which business rates are based on, has been assessed independently of Ministers by the Valuation Office Agency since 1990. The Bill will, among other things, make a change to when the Valuation Office Agency must publish draft rateable values. The noble Lord, Lord Greenhalgh, has told us previously that this is to support the smooth transition of the revaluation. The publication of these draft rateable values will be aligned with the timing of decisions relating to the multipliers and transitional arrangements.

This is only a probing amendment and I am hopeful that the noble Lord will be able to set out for the Grand Committee exactly how what is asked for in the amendment has been done. If the agency and local authorities have not been consulted, can he tell us why not, and why the Government think that that is an acceptable course of action?

Amendment 6, in the names of the noble Baronesses, Lady Pinnock and Lady Thornhill, would insert a new clause into the Bill. I am very much in support of this new clause, as it would provide for an impact assessment of the timing of a rates revaluation. I am sure that we will get a full explanation of the amendment from the noble Baronesses.

There is of course a wider debate to be had about the whole question of business rates and their appropriateness as an element of local government funding. It is important to note that the Government have cut £15 billion from central government funding for local government in the last decade. The Covid-19 pandemic has had a catastrophic impact on local

[LORD KENNEDY OF SOUTHWARK]  
 authority finances, with income falling and costs rising. The current lockdown, which is the right thing to do, will also have a serious impact. Here, the Government need to keep their promise to fully fund local authorities for the costs of the pandemic.

According to the Local Government Association, local councils in England will face a funding gap of more than £5 billion just to maintain services at current levels. But to respond to demand pressures and plug the existing funding gap, an additional £10 billion per year in funding will be needed by 2023-24. For those reasons and many others, which I am sure we will hear from the noble Baronesses, Lady Pinnock and Lady Thornhill, I support their amendment. I beg to move.

**Baroness Thornhill (LD) [V]:** My Lords, I, too, am a vice-president of the Local Government Association.

I wish to speak in favour of Amendment 6, which stands in my name and that of my noble friend Lady Pinnock, and to support Amendment 1 in the name of the noble Lord, Lord Kennedy of Southwark.

I am very aware that this is a narrowly focused Bill and that it has had broad support and been welcomed. However, it is significant that, despite that, several Members of your Lordships' House have taken the opportunity to table amendments. I believe that that shows the depth of concern around the whole issue of business rates. The amount of interest shown in both this tightly drawn Bill and the Government's consultation for their ongoing business rates review shows how important it is for the review to be both bold and radical.

It is also significant that all the amendments seek to hold the Government's feet to the fire with regard to the various ongoing impacts of the Bill, be they on sports clubs, the high street or local government finance—hence, Amendment 6 stipulates a timeframe of six months. This is due to the fact that the instability and uncertainty provoked by the impact of Covid-19 are exacerbating issues that were already of significant concern—and we are not out of the woods yet.

Indeed, the amendment seeks to continue to draw your Lordships' attention to the challenging situation regarding local council finances. The latest figures from the Local Government Association show that the financial impact of Covid-19 on local authorities is an estimated £9.7 billion for 2020-21, with a further £2.8 billion of lost income from council tax and business rates. However, it must be noted that these figures were reported before the lockdown and the spread of the new strain was known. This is a significantly different set of circumstances from when the 2020-21 funding package was last evaluated, and is part of the reason for continuing concern around council finances. I am sure it is appreciated by all noble Lords just how important business rates are to the individual finances of a local authority.

One reason for the amendment is to highlight the volatility of the tax base, which is so unpredictable at present. For example, the loss of office space to residential—a topic much discussed with the Minister in this House—is a trend that is likely to continue with inevitable loss of revenue. The Valuation Office Agency is currently negotiating appeals and challenges for offices, airports and factories under a material change of circumstances appeal, due to Covid-19. A rebate of

up to 25% was mooted. The reduction in income could be substantial. If a rebate were forthcoming, would subsequent losses be repaid to local government in line with the recently announced tax income guarantee? Some 75% of losses will be guaranteed for 2020-21, but nothing has been said yet about 2021-22. Of course, local government must make up the other 25%.

The amount of money that councils have had to put aside for appeals is also significant, hence local government concerns around cutting down the window of time to appeal and getting the number of appeals reduced. The more certainty that we can add to the processes the better. To date, councils have had to divert £3 billion from services to appeals. A significant amount of money is also tied up in irrecoverable losses for both business rates and council tax. With debt recovery and enforcement activities understandably limited due to the pandemic, and with limits on activities and pressures on court time, councils' ability to recover debts and secure income as they usually would, will be restricted. These are not usual times, and more businesses are likely to fail.

I use these points to illustrate one purpose of the amendment and the volatility of this important tax base. There is much instability in the system at present, which is being masked by the current, much-needed and much-valued reliefs offered to businesses from the Government. This could change significantly when the reliefs end; it could impact on local authority incomes, but we do not know when this will be. If the amendment is not accepted, could the Government at least agree to look closely at the impact once all reliefs have been suspended? This could provide vital evidence on which sectors are most impacted as well as on local councils' finances.

Regarding Amendment 1, it was noted by several noble Lords at Second Reading that the VOA has been formally criticised as being cumbersome and difficult to deal with, and its valuations opaque and inconsistent. This is why I endorse what has been said by the noble Lord, Lord Kennedy of Southwark, and support his amendment and additional amendments tabled by my noble friends. In short, the amendment asks the Government how the pandemic that happening now will affect the revaluation in 2023, based on values at April 2021, which will not be looked at again until 2028.

**Lord Bourne of Aberystwyth (Con) [V]:** My Lords, it is a pleasure to follow the noble Baroness, Lady Thornhill, who certainly speaks with authority in this area, not least from her time as Mayor of Watford. I speak to the first group of amendments and, as I indicated at Second Reading, I strongly support this Bill. It is welcome, it is needed, it is positive, and I hope that it passes unadorned. I thank the Association of Convenience Stores for its briefing on this subject. It too strongly welcomes this legislation.

The effect of moving the business rate revaluation to 1 April 2023 will mean, as has been noted, that valuations will be fixed as at 1 April 2021. This will prevent the base being on a very high value, or on a relatively high value, as at 2019. This Bill will, in short, ensure that the base that is used reflects the impact of the pandemic. That is welcome. It will also provide certainty to non-domestic rate payers. This is very

welcome to a hard-pressed sector. However, I have some questions for my noble friend the Minister. While I am very much in favour of passing this Bill, I would welcome some further reassurance from my noble friend regarding what discussions there have been with the Valuation Office Agency and local authorities about timescales and resources.

2.45 pm

In relation to local authorities, speaking about the impact of the revaluation on the business rates retention scheme at Second Reading, the Minister said:

“On this point, I assure the House that we intend to make any necessary adjustments within the business rates retention system to ensure that locally retained income is, as far as is practicable, unaffected by the revaluation.”—[*Official Report*, 18/1/21; col 1068.] Can I press my noble friend a little more on that? I take that to mean that, except de minimis, retained income will be no less than prior to the revaluation. It is an important point and I hope that he will be able to provide the necessary reassurance that my interpretation is correct.

On the wider point about the reform of business rates and what we are doing today, this Bill is, I think, essentially non-controversial in what it is seeking to achieve. What will be more contentious, I suspect, is looking at the way we levy business rates or commercial taxes on business in future. This issue has been thrown into high relief by the pandemic, making more obvious the imbalance between physical high street retail, out-of-town retail and, of course, online businesses. This is an important issue, and it is clearly essential to our nation that we get the balance right; all three parts of that servicing of retail are important. I would be grateful if the Minister could provide some thoughts on that. I appreciate that he cannot be precise on the approach or the timescale, but some indication of when we will address this important issue would be welcome.

**Baroness Pinnock (LD) [V]:** My Lords, I remind the Committee of my interests, as recorded in the register, as a member of Kirklees Council and a vice-chair of the Local Government Association.

The debate on these amendments has been a relatively short but, I trust, helpful for the Government. As we have heard from my noble friend Lady Thornhill, and the noble Lords, Lord Kennedy and Lord Bourne, to cover the cross-party contributions to this debate, there are significant concerns about the timing of the assessment—or the antecedent valuation date, to give it its official title—of new rateable values. Some have experienced enormous challenges over the last year, none of which are of their making. The challenges of the pandemic have brought large parts of the hospitality and retail sectors to their knees. Now is not the time to undertake an assessment of rental values, which is in large part the basis of the valuation.

Will the Minister agree to discuss with the department the possibility of a delay to the AVD? This concern is at the heart of the amendment in my name and that of my noble friend Lady Thornhill. A six-month review would establish whether it is practicable to assess new rental values that feed into the final valuation. A delay is preferable but, failing that, a review is essential as it would highlight the difficulties of doing this while a pandemic is rife. The concerns from those of us who

have had extensive local government experience is that local authority finances will be adversely impacted. Of course, the Government have given assurances that any loss of income from business rates will be fully compensated—at the moment. However, they have not, as yet, given such a commitment for when the revaluation comes live in 2023. Will the Minister provide copper-bottomed assurance that no local authority will lose income from the revaluation, and that any necessary top-ups will be provided? I look forward to the Minister's response to these questions, which will inform any amendments to be tabled at Report.

As we discussed at Second Reading, the Government have chosen a particularly inopportune time for the revaluation of business rates. The valuation day is set for April of this year, and I urge the Minister to consider delaying the date and accepting the proposal in both these amendments. I look forward to his reply.

**The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con):** My Lords, I first point out my residential and commercial property interests as set out in the register.

I am grateful to the noble Lord, Lord Kennedy, for raising the points highlighted by his proposed new clause. The business rates system is unusual among taxes because its implementation is split between the Valuation Office Agency, which is an agency of HMRC, and local authorities. Many noble Lords have, like myself, experience of working in local government and know and understand how important the relationship is between the VOA, local authorities and my department in running the business rates system.

As the Committee would expect, one of the issues raised in our discussions with local government has been how revaluations impact on local government funding, so I am grateful to the noble Baronesses, Lady Pinnock and Lady Thornhill, for tabling their amendment on that subject.

In relation to the provisions of this Bill, we have worked closely with the VOA to ensure that a revaluation in 2023 can be delivered on time. The antecedent valuation date of 1 April 2021 was set by a statutory instrument laid on 6 August last year, since when the VOA has been preparing for the revaluation. It has already started to collect the information it needs to value 2 million properties and is on target to complete the exercise to plan.

As I discussed at Second Reading, Clause 1 also moves back the latest date by when the draft rating list must be published before the revaluation to no later than the preceding 31 December. In practice, we expect this to be around the time of the autumn fiscal event, when the multiplier and the transitional relief scheme are also announced. That will mean that rating lists will come to local government a little later than previous revaluations, but we do not expect this to mean any delays in the process of billing or estimating business rates income.

Local government of course needs the multipliers and details of relief schemes before it can calculate liabilities, and it is only once that full package is confirmed that bills can be issued. That is the case whether we are in the year of a revaluation or not. Nevertheless, I can

[LORD GREENHALGH]

assure my noble friend Lord Bourne and the Committee that my officials meet representatives of local government regularly and will continue to discuss these matters with them to ensure the smooth delivery of business rates bills.

More generally, my department and the VOA are continuously looking at how we can improve consultation and closer working with local government. In recent years the VOA has introduced a data gateway under which it is able to share information about ratepayers with local authorities in order to support the billing process, and last year we made regulations empowering local authorities to provide the VOA with information on a quarterly basis about the properties that ratepayers occupy. This was introduced with the support of local government and will ensure that the VOA has up-to-date information ahead of 1 April 2021, which is the intended valuation date for the 2023 revaluation.

One specific matter we have discussed with local government is how to reflect in the local government finance system the changes in business rates income at revaluation—and I recognise that this is the matter on which the noble Baronesses, Lady Pinnock and Lady Thornhill, seek reassurance through their amendment. The purpose of the revaluation is to ensure that business rates bills reflect the up-to-date rental value of properties.

This of course means that some ratepayers will see increases and some will see reductions as a result of the revaluation, and it follows that the business rates income for individual local authorities will fluctuate in the same way. Some local authorities will see their business rates income rise at the revaluation and others will see it fall. Between revaluations, local authorities can increase their business rates income by supporting growth and investing in their area. Their share of this type of growth is retained by them through the rates retention scheme.

In contrast, the changes we see in local authority income levels at the revaluation come mainly from the trends and variations in the wider national economy and the commercial property market. These factors are largely outside the control of individual local authorities and the Government's view is that such changes in business rates income levels at the revaluation should not feed through into local government budgets.

Therefore, our intention—as it was at the previous revaluation in 2017—is that we will, as far as is practicable, ensure that retained rates income for individual local authorities under the business rates retention scheme is unaffected by the 2023 revaluation. For the 2017 revaluation we achieved this by adjusting the tariffs and top-ups in the scheme to reflect the change in income at the revaluation. We consulted local government on the mechanics of these adjustments from as early as the preceding summer. This was a collaborative process and one which we intend to repeat for the 2023 revaluation. This process will give local authorities the budget assurances they need regarding revaluation. As such, the timing of the revaluation and how it affects the distribution of business rates income should not impact directly on local government finances.

I hope, therefore, that I have reassured the Committee on the degree to which my department and the VOA work closely together and in partnership with local

government on business rates matters, and on the steps we will take to protect local government finances at the time of the revaluation. These working relationships are important, and we are indebted to those in local government who offer their time and expertise to support us in running and improving the rating system.

I hope that, with these assurances, the noble Lord, Lord Kennedy, and the noble Baronesses, Lady Pinnock and Lady Thornhill, will agree not to press their amendments.

**The Deputy Chairman of Committees (Baroness Watkins of Tavistock) (CB):** I have received no requests to speak after the Minister, so I call the noble Lord, Lord Kennedy of Southwark.

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, I thank all noble Lords for their contributions to this short debate. In particular, I thank the noble Lord, Lord Greenhalgh, for his full response on the issues raised by the two amendments. I will read the noble Lord's response carefully before considering whether this is an amendment to which I will wish to return on Report.

The noble Baroness, Lady Thornhill, made a compelling case for her amendment and set out the difficult situation in which local authorities find themselves. We will come to amendments later on regarding appeals, but the noble Baroness highlighted the real problems that are faced today. The noble Lord, Lord Bourne of Aberystwyth, raised further important points and questions that, again, we may need to come back to on Report. However, at this point, I am happy to withdraw my amendment.

*Amendment 1 withdrawn.*

**The Deputy Chairman of Committees (Baroness Watkins of Tavistock) (CB):** We now come to the group beginning with Amendment 2. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate.

#### *Amendment 2*

*Moved by Lord Kennedy of Southwark*

**2:** After Clause 1, insert the following new Clause—

“Assessment of impact of timing of business rates revaluations on prosperity of towns and high streets

Within six months of the passing of this Act, the Secretary of State must publish an assessment of the impact of the timing of business rates revaluations on the prosperity of towns and high streets.”

Member's explanatory statement

This new Clause would create an assessment of the impact of timing of business rates revaluations on the prosperity of towns.

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, Amendment 2 in my name seeks to place in the Bill a new clause that would require the Secretary of State to publish an assessment of the impact of the timing of business rates revaluations on the prosperity of towns and high streets. We need a root-and-branch reform of the business rates system to make it fairer and to help bricks-and-mortar retailers compete fairly with the online, out-of-town warehouse operations that are putting our much-loved high streets at risk.

Even before the Covid-19 pandemic, we saw a serious decline in footfall on our high streets, and we now have the tragic situation where, on average, one in 10 shops is standing empty. Something must be done to reverse this decline. My amendment seeks to focus minds on this pressing problem. I hope that the Government will take the opportunity to consider it carefully and to accept it.

Amendment 5, in the names of the noble Baroness, Lady Pinnock, and the noble Lord, Lord Stunell, is another that I am happy to support. It gives us an opportunity to examine whether the revaluation based on property values as on 1 April 2021 is right. There are some suggestions that property values will fall even further, and, if that is the case, we could be creating further problems for our hard-pressed high streets.

Amendment 7, in the names of the noble Lords, Lord Addington and Lord Moynihan, brings us back to an issue that both noble Lords spoke about at Second Reading. It proposes a new clause that would require the Secretary of State to publish an assessment of the impact of the changes in the timing of business rate revaluations on amateur sports. I fully support this amendment and cannot see any reason why the Government would want to resist it.

Some amateur sports clubs have charitable status and some have community amateur club status, which provide a level of tax advantage. Charitable status provides for 80% rates relief, with the ability of the local authority to offer a top-up. But many sports clubs are not charities and will not be able to secure this benefit, and I think that it is important to understand the effect of these changes on these organisations. I am sure that we will receive detailed explanations of the amendments later in the debate but, at this stage, I beg to move.

3 pm

**Lord Stunell (LD) [V]:** My Lords, I wish to speak to Amendment 5, in my name and that of my noble friend Lady Pinnock, but I also make clear that I support the intentions of both the other amendments in this group. My noble friend Lord Addington will speak to his Amendment 7 shortly. Amendment 2, just moved by the noble Lord, Lord Kennedy, sits four-square alongside our Amendment 5 and I am happy to add my support to the case that he has put forward.

I remind the Minister that the Government's previous intention was to have the revaluation come into force this year. They had moved that forward from the original 2022 date because of the deteriorating situation of the high street retail sector and the very clear disconnect between outdated valuations and current purchase prices and letting rates. The most obviously outrageous example of that is, of course, the underpricing of out-of-town distribution centres and warehouses.

Covid-19 has changed the situation in two significant ways, the first of which the Government have responded to, but the other is the one I want to draw particular attention to and which Amendment 5 seeks to address. As it was unrealistic to carry out the necessary work on the ground to carry out valuations because of lockdown and infection control restrictions, the date of 1 April this year was set in place of 1 April last year.

That is one of the responses, but it does not take account of the other impact of Covid. There has been a huge acceleration in the existing trend of retail transferring from the high street to online. It is interesting, indeed compelling, that the Association of Convenience Stores, which has 35,000 local shops and forecourt sites in its membership, has reported that 42% of independent shops polled would have gone out of business already if it had not been for the Government's business rate moratorium—that is the drastic impact on income for the physical retail sector. We can see from the business pages of any national newspaper that many high street names have closed down or downsized, or are being asset-stripped by hungry online operators buying up their brand. This is an acute crisis, but also a chronic one. Everyone understands that the online shoppers newly recruited by the pandemic have found that it is an easy way to buy and is perhaps better than trudging round in the rain. Nobody expects the retail business of the high street to return to its former levels.

On these Benches, we very much welcome the 100% business rate discount that the Chancellor has introduced. We believe that, in any case, it will need to be extended until there can be a return to what I might call peacetime trading. But those peacetime retailers cannot expect to return to the same volume of sales. Every one of them knows that their turnover will be down and their already dwindling profits will be even less in the post-Covid, peacetime marketplace. When the Chancellor's scheme ends they will face what were already unreasonably high rating valuations still in full force. Many will be forced into closure. The shutters will come down across the country, leading to a spiralling reduction in footfall and undermining the viability of what remains.

I said at Second Reading that it would be good to see some joined-up thinking by the Government, with a seamless move from the Chancellor's support scheme for retail running through to the new reduced level of business rates that will come with this measure, as far as the high street retail industry is concerned. I must say to the Minister that it is no good the cavalry coming over the hill two years later simply to count the dead. Either the cavalry must come sooner or the Chancellor must extend his scheme to fill the gap—or a properly planned bit of both. Otherwise there will be precious few retail business left to take advantage of the lower rates bills that we all expect this measure to offer. Hence our amendment: an impact assessment, as the Minister well knows, does not just look at the impact of doing what is proposed, but poses the important question, "What other ways have you looked at to achieve the same outcome?"

Such an impact assessment as we propose would show pretty clearly that delaying implementation of the new valuations to 2023, whatever the actual valuation date, will lead to far more businesses failing and far more damage to the high street than having a 2022 start date for the new system. It would show that extending the Chancellor's scheme to bridge whatever gap remains would be excellent value for money, bringing a huge financial and community well-being dividend to put the high street back on its feet. It would also certainly show that any gradual phasing-in of the improvement beyond 2023—so that it was in some way cushioned

[LORD STUNELL]

and delayed the benefit to the retail sector—would be terminal. I suggest also, perhaps slightly with my tongue in my cheek, that it would set an interesting precedent, where two government departments look at a policy in the round and agree a sensible way of taking in each other's washing rather than taking separate decisions—one on the 100% business rate discount and the other on the start date of the new valuations—in two different soundproof silos.

**Lord Moynihan (Con):** My Lords, I will speak to Amendment 7, in my name and that of the noble Lord, Lord Addington. Before I move to the detail of our amendment, this Committee provides us with the opportunity to set out the critical importance of making the case for further government measures to support sport, recreation and an active lifestyle as we emerge from the Covid epidemic.

The Government are to be congratulated on the steps that they have taken: the £300 million sport winter survival package, which specifically should help the top-end spectator sports in England and provide important support to rugby union, horseracing, women's football and the lower tiers of the national football league; and £100 million through the national recovery fund to support publicly owned leisure facilities impacted by Covid-19. However, this is nowhere near the £1.75 billion investment package to protect the world-class arts, culture and heritage sector, which was designed to help the showcase institutions as well as the small local arts and culture initiatives across the country.

Consider the scale of this investment to help sport alongside the £2 billion announced to investment in cycling and walking, not by DCMS but the Department for Transport last May, since when—as recently as last weekend—the *Sunday Times* led on the front page with the impending loss of £110 million to professional sport if gambling logos are banned from sports shirts. Sport on television has provided a beacon of hope and escape for millions of people during the current Covid lockdown—a massive ray of respite amid the boredom and gloom of lockdown. In that context, there has been more coverage of the return to terrestrial television of the England-India test series starting in Chennai tomorrow than there has been of actual coverage of matches in many an overseas test series in the past.

The Government have responded well to the need of our elite sports men and women with safe and necessary exemptions from many of the Covid regulations. These exemptions will need to continue when the new travel quarantine regulations are announced shortly. The Six Nations depends on the exceptionally safe arrangements made for professional sport and the vital good sense of those involved to observe strictly the bubbles in place to protect them. Neither the French team—nor, for that matter, Andy Murray, when he resumes the ATP tour—should be required to spend two weeks in the Gatwick Holiday Inn when they arrive here.

Of course, even those who represent our country would not expect to be, nor should be, vaccinated before the vulnerable groups of all ages in society. I hope, however, that when that cohort is complete, consideration will be given to many of our Olympic

and Paralympic athletes ahead of their vital international training, selection and competition schedules later this year.

That is the backdrop to today's call to extend the business rate holiday granted to the retail, hospitality and leisure sector indefinitely, and the opportunity within six months of the passing of the Bill to publish an assessment of the impact of the timing of business rate revaluations on the viability and health of amateur sports and sporting activity. I hope to abolish them for that sector altogether.

The holiday has been invaluable to sports organisations that own their property, including national governing bodies, professional clubs and community clubs and organisations. However, the rates bill in the past has often been the anchor that dragged many sports clubs towards the rocks of administration and financial difficulties, and at this time we must focus on how we increase opportunities for everyone to follow an active lifestyle. Declining participation rates, a major drop-off in sport after school years, the loss of playing fields and the reduction in local authority spend in England—sport and recreation is a discretionary-line item spend in their accounts, rather than the compulsory priority that it should be—have collectively led to the absence of the much-hoped-for sports legacy from the 2012 Olympic and Paralympic Games. Obesity levels, boredom among the young and lack of opportunities for all pepper the landscape over the UK.

In contrast, I can only praise my noble friend the Minister's commitment and support for sport in successive policy areas in his department. At Second Reading, he listened carefully to the representations made, as he did previously to my noble friend Lord Botham on this subject. He knows that the business rate holiday can directly benefit community sports clubs, with their sole objective of providing healthy and enjoyable recreational and sporting opportunities, ensuring that all ages re-emerge into the light stronger, fitter and more active in future years than suggested by the pattern of growing obesity and falling participation as a proportion of our growing population, which we saw in the years approaching the pandemic. That alone is one of the major reasons for the increasing call on the NHS in the 2010s. It was in danger of being overburdened before, let alone during, the pandemic.

Like me, the Minister knows that the country faces stubborn inequalities, that the activity gap is widening and that places and spaces, community sports clubs and leisure facilities are critical to providing opportunities for a more active nation to emerge from the epidemic—yet the hardest hit are in deprived communities. Such clubs proliferate in our poorer communities, not least in the East End of London, where life expectancy falls one year for every Underground station passed on the Jubilee line between Westminster and Stratford. Life expectancy is 10 years less there. That is why the Government need to support the Sport and Recreation Alliance, with its campaign to boost activity, from traditional or formal sport to the informal fun and enjoyment that many people can derive from outdoor recreation, movement, dance, and physical activity. Let us make sure that local clubs registered as community amateur sports clubs are exempt from business rates for ever.



My hope is that the case is considered to extend similar support to all sports clubs which provide community sport and recreational opportunities. In comparison to other sectors, business rate liability for the community sport sector remains unfairly high in relation to income. Community sport clubs often have limited financial resources, as they seek to increase membership subscriptions in ways that are affordable, thus enabling community participation without those subscriptions being extortionate.

The cohort of sport and recreational facilities in this country is ageing; too many are falling into disrepair. The costs to operate, repair and maintain are onerous. The result is that sport pays a disproportionate level of business rates, which in themselves are a brake on the key policy objective of making this nation healthier and more active. Sheffield Hallam University recently published a report on the social and economic value of community sport and physical activity in England, valuing it at £85.5 billion. The analysis valued physical and mental well-being at £9.5 billion, mental well-being itself as well as mental health at £42 billion, individual development at £282 million, and social and community development at £20 billion. That evidence makes a compelling case for investment in community sport and physical activity. One keyway in which that can be achieved is a major change in how my noble friend's department and the Treasury approach a new system of support for exempting those clubs involved in community sport schemes from the business rate system.

3.15 pm

I was a major campaigner for changes to be made to the old system in 2002, which resulted in the current and welcome change to the discretionary CASC scheme. But 20 years have passed and we have seen that it does not go far enough if we are to prioritise a healthier lifestyle for all adults and children. The absence of comprehensive rate relief leaves a present system that places a detailed and unreasonable administrative burden on the volunteers who make up the management committees of most community sports clubs. As the Sport and Recreation Alliance has said, the basis of assessment remains unclear and the costs and complexity of the appeals system forces many clubs to accept valuations which are too high. Rate bills are often complicated by transitional arrangements, and there are a plethora of confusing reliefs and exemptions.

The Bill will help, and our amendment will help further. I urge my noble friend the Minister to talk to colleagues in the Treasury and seek the changes that are an essential component to the survival of the sector. Should he accept the amendment, he would unite the Committee and the House, giving my noble friends in sport Lord Botham and Lord Addington—and, dare I say it, even Jeremy Clarkson, who much maligned my noble friend the Minister on another occasion—the opportunity to show their gratitude on behalf of the world of sport.

**Lord Addington (LD):** My Lords, how do you follow that? Jeremy Clarkson being mentioned in a debate in Grand Committee is something new to me. I congratulate my noble friend in sport—my collaborator in sport; that is probably a better way to put it. The essential point is that amateur sport, its clubs and the structure

around them are a vital part of our social infrastructure. No one disagrees with that. Will the rating system be a support or a brake on this? How do you generate local money for such a universally accepted good? I congratulate the Government on giving some money to it, although not enough—not as much as it has lost—considering the changes that it will have to go through.

Anybody who has gone through pre-season training will know that it is a bit of a shock to the system. When you have had a year away from it, without playing properly, and you come back to find out that you have problems raising money as well, would you want to sit on the committee? As my noble friend in sport—to use his term again—says, it is a complicated and difficult system and people do not know how to deal with it. I must draw attention to some of the activities I have helped with, including getting the RFU a guide to local government. There were people telling me then, “It is not needed because the information provided is on 53 different websites under 42 different links, and if you understand the law it is fine.” That was the general consensus. These people are amateurs, taking part for fun—and they are giving the Government what they want: activity levels, social interaction and, very often, an informal job market.

Those things are valuable. If the Government will not accept the amendment, please will they heed those words? I hope that the Minister comes away from the debate saying that he will make greater efforts to make the various bits of government talk to each other. If the DCMS proposes something, the department of health may say, “That’s a good idea,” while the Department for Education says, “Yes, but it can’t get in the way of exam results,” and local government says, “What—us?” That seems to be about the way it goes. You can start from any of those departments and stick a couple more in there as well; I will not insult the Minister by trying to mention them all.

If we can get some idea that we are taking the problems of this vital sector seriously, it will reassure many people. Also, Members of the Committee should remember that all the structural problems they see here are the same for virtually any other volunteer sector. I could have mentioned music or any other such sector. Every time that you take on some commitment to a property for a voluntary activity, you have the same problems. When the Minister replies, I hope that he will give us an idea about the thinking here. At the moment, it seems to be a case of, “Oh yes, that’s terribly good, we should support it, but it seems to be somebody else’s problem.” Take a stand here—say it is yours.

**Baroness Pincock (LD) [V]:** My Lords, this group of amendments relates to the impact of the timing of business rate revaluations on the retail sector and, hence, the future of our town and city centres. In the first group of amendments, we discussed the timing in general terms, but my colleagues and I ask the Government to fully consider the implications of a revaluation on business profitability and survival.

For many small businesses, business rates are a significant overhead, along with the rent for the property. As my noble friend Lord Stunell reminded us, the Government’s original intention was to have a revaluation assessment in 2019, but this was moved because of

[BARONESS PINNOCK]

negative forces affecting retailers. That negative impact has not gone away, as he said. We support the relief provided by the Government as part of their Covid response, but these are very uncertain times. This Bill proposes to push back the date on which the multiplier is announced from the September to the December prior to the new valuations coming live—in this instance, it means an announcement in December 2022. This will give businesses just three months to analyse the implications for them of the new rates bill they will be paying from April 2023. The amendment in my name and that of my noble friend Lord Stunell would enable the Government to consider the consequences of the new valuation for particular business sectors and particular regions before the multiplier was determined. An impact assessment would have to consider all the angles of the proposal and would throw light on the effect of the revaluation. It is a positive amendment which would help the Government get to a fair outcome in the revaluation of business rates.

As the Minister will know, in 1990, when the system was created, the multiplier was 34.8%. In 2020, that had risen to 51.2% for large businesses and just under 50% for small businesses. The multiplier is a crucial factor in the final business rate bill. The consumer prices index is the relevant figure used for the multiplier. Does the Minister think it is now time to reconsider the level of the multiplier? I suspect that the answer to my question will be that we should wait for the business rate review that the Government constantly promise. That will give no comfort to businesses, who will know from this Bill that they are expected to pay business rates under this outmoded scheme for at least another five years. There is obviously an effect on the profitability of individual businesses, but there is also the cumulative effect on town and city centres. As the noble Lord, Lord Kennedy, reminded us, one in 10 shops currently lies empty.

The revaluation is just one of the uncertainties that businesses are having to grapple with. The town centre funds and high-street funds that the Government have announced are all well and good, but they just paper over the cracks while the main issues affecting business survival are largely ignored in policy definition and implementation.

My noble friend Lord Addington and the noble Lord, Lord Moynihan, have raised an issue close to their hearts: the effect of business rates on amateur sports clubs. Both were right to do so and made the case with knowledge, experience, and powerful arguments which we fully support. Every community will have an amateur sporting activity at its heart, one that provides enjoyment and an opportunity to develop skills and teamwork through physical activity. They are vital ingredients of a healthy community. I urge the Minister to take note of the arguments made and come to Report with a proposal for action to help amateur sports clubs. I look forward to his response on all the points made.

**Lord Greenhalgh (Con):** My Lords, this group of amendments allows us to consider the impact of the 2023 revaluation on rates bills, the multiplier and, specifically, our high streets, town centres and amateur sports clubs. Understandably the Committee, businesses

and all ratepayers would like to know how the 2023 revaluation will affect rates bills. However, it will be some time before we know that. The carrying out of a business rate revaluation is a significant exercise which requires the careful application of the considerable expertise within the Valuation Office Agency. The two-year gap between the date on which valuations will be based, 1 April this year, and the date on which the next revaluation will be implemented, 1 April 2023, is necessary to ensure accurate rateable values. For this reason, we will not know the result of the revaluation until much later, in 2022. The Government will not therefore be in a position to make an assessment of the next revaluation in respect of any specific sector or the rating list as a whole within six months of the Bill receiving Royal Assent, as is sought by some of these amendments.

However, I can say that, once enacted, the Bill will ensure that business rate bills from 1 April 2023 will be based on rental values as of 1 April 2021. This means that the business rates due on properties based on our high streets and in our town centres or in the leisure sector will be up to date and better reflect the impact of the pandemic.

Certainly, an important part of rates bills when we reach the 2023 revaluation will be the level of the business rate multiplier. It may help the Committee if I explain more about the process of setting the multipliers for 2023-24. As with all years, we are required to finalise the multipliers as soon as reasonably practicable after the local government finance report has been approved, normally in February. For example, at the last revaluation in 2017, the multipliers were confirmed on 9 March. Therefore, we expect to finalise the multipliers for 2023-24 in late February or early March 2023. In contrast, the new rating lists will not be compiled until 1 April 2023. Therefore, it would not be possible to publish the assessment sought in the amendment proposed by the noble Baroness, Lady Pinnock, and the noble Lord, Lord Stunell, before the multiplier was confirmed but after the list had been compiled.

Nevertheless, I appreciate of course that noble Lords and businesses will want to understand the impact of the revaluation as early as possible and before the multipliers are confirmed. In practice, we will announce provisional multipliers and the transitional relief scheme much earlier in the process, at the time of the autumn fiscal event.

It is our intention at the same time to publish the entire draft rating list. This means that, as well as being able to see the sectoral or regional impact of the revaluation, individual ratepayers, be they on the high street or in the sports sector, will be able to check their own rateable value and calculate their own rates bill. This will give an overall picture of the revaluation and allow ratepayers several months' warning of their new rates bills.

I point out to the noble Baroness, Lady Pinnock, that the process of setting the multipliers is controlled largely by rules in legislation. We are required to make an adjustment to the multipliers for 2023-24 to offset the estimated change in total rateable value due to the revaluation after allowing for inflation and forecasted future appeals. It is that adjustment which drives the level of the multipliers in 2023-24.

We cannot by law set multipliers higher than that calculated from the adjustment. The Chancellor may by order set a lower multiplier, however. Noble Lords will understand that that is a fiscal matter decided by the Treasury as part of the normal Budget process, balancing the pressures on businesses with the need to fund vital local services, but I assure the Committee that the Government will have full regard to the impact of the revaluation before deciding whether to exercise that power and set a lower multiplier.

Our town and city centres are important hubs of our communities, and I am proud of the steps that the Government have taken to support this crucial part of our economy. While this Bill represents a postponing of the next revaluation, I know from the comments made at Second Reading that noble Lords appreciate that this is a step taken in the exceptional circumstances of the pandemic. However, as I have said, once we reach 2023, the new rateable values will better reflect the impact of the pandemic on rental values in locations such as the high street.

3.30 pm

Outside these exceptional times, the Government remain committed to frequent revaluations. The high street continues to be a fast-changing environment, and frequent revaluations will ensure that business rates accurately reflect these trends and changes in the rental market over time.

Nor have we been waiting until 2023 to support the high street. As my colleagues present today will know, the Government responded to the pandemic by ensuring that eligible businesses in the retail, hospitality and leisure sectors are paying no business rates at all in 2020-21. This relief is worth around £10 billion and, when considered alongside small business rate relief, it means that more than half of all ratepayers in England will pay no rates at all this year. Furthermore, this Government have committed not just to buttress our high streets when they are required to be at their most resilient but to support them in returning as strong centres of our local economies and communities.

The amendment tabled by the noble Lord, Lord Kennedy, describes our high streets in terms of prosperity. The Government are committed to supporting the sector in recapturing that prosperity, which is why we have launched the £1 billion future high streets fund to support our town centres in responding with dynamism to the changes in consumer behaviour that have been accelerated by the pandemic. This support forms part of the Government's £3.6 billion towns fund, which will be used to drive growth and ensure the future sustainability of our town centres and high streets.

There is no greater advocate of amateur sport and community sports facilities than my noble friend Lord Moynihan and his partner in collaboration, the noble Lord, Lord Addington. As the Committee will know, it is not just businesses that are affected by a revaluation; it is also other non-domestic premises such as charities and sports clubs. The Government recognise the value of amateur sports clubs to communities across the country, which is why we have maintained the community amateur sports club scheme. This means that registered

clubs are able to benefit from a number of charity-type tax reliefs, including gift aid, corporation tax relief and an 80% business rate discount.

I know that the noble duo asked for more on that, and I will point out that the Government are currently considering options for business rate relief as part of the fundamental review of business rates and in the context of the ongoing pandemic. We will outline plans for the 2021 reliefs in the Budget. I will be a strong advocate of what the noble Lords are asking for in the process of the Chancellor forming his opinion on that. Business rate relief means that eligible sports clubs benefit from the same reductions today as properties being used for charitable purposes.

I hope, therefore, that noble Lords will understand why it is not possible to predict the impact of the revaluation either now or six months after the passing of this Bill, but that the outcome will better reflect the impact of the pandemic. This Government are fully committed to taking the necessary steps to support the renewal of our high streets, provide support to amateur sports clubs and ensure that ratepayers have several months' warning of their new rates bill.

I hope that, with these assurances, the noble Lord, Lord Kennedy, will be content to withdraw his amendment and the noble Lords, Lord Stunell and Lord Addington, my noble friend Lord Moynihan and the noble Baroness, Lady Pinnock, will agree not to move theirs.

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, I thank all noble Lords who spoke in this short debate.

I was not particularly convinced by the Minister's response to my amendment. We are asking only for an assessment of the impact of the timing of the business rate revaluation on the prosperity of towns and the high street. I would have thought that the Government would have wanted to do this anyway, to arm themselves with some data, facts and information so that they make good, sound decisions that will have the right long-term effects. So we may come back to this amendment on Report.

I very much support the remarks of the noble Lord, Lord Stunell. I fear, though, looking at the Government and their record, that the soundproofed silos referred to by the noble Lord are firmly in place and contribute significantly to the issues and problems that the Government face. We often hear that departments do not talk to each other. The Government have a lot of issues here, many of which can be traced back to the way in which the Government operate on policy matters.

I also agree with the remarks of the noble Lords, Lord Moynihan and Lord Addington. I very much support the call for further support for community sport, particularly in our poorer communities. The call to exempt for ever community sports clubs is the right thing to do. We want to see everybody get active, fitter and healthier. Almost every night of the week, we see those adverts from the Government asking us all to be healthier, get fitter, walk more and do more sport, so that is absolutely the right thing to do.

If we support providers of community sport and improve our health as a nation, the savings to the NHS and the Exchequer will repay the relief many times over. In that sense, it is a no-brainer. As the noble

[LORD KENNEDY OF SOUTHWARK]

Lord, Lord Addington, said, these clubs give us the activity levels that we all want to see—so, again, I very much support his amendment. Indeed, I hope that he and the noble Lord, Lord Moynihan, will bring their amendment back on Report. I assure them that, if they do not get the assurances that he wants from the Government then, we will happily support them if they want to divide the House at that stage. Perhaps we need to pass this amendment to give the Minister and the Chancellor of the Exchequer a little more encouragement to do the right thing. But at this stage I beg leave to withdraw the amendment.

*Amendment 2 withdrawn.*

**The Deputy Chairman of Committees (Baroness Watkins of Tavistock) (CB):** My Lords, we now come to the group consisting of Amendment 3. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate.

### *Amendment 3*

*Moved by Lord Kennedy of Southwark*

**3:** After Clause 1, insert the following new Clause—

“Assessment of the impact on appeal waiting lists

Within six months of the passing of this Act, the Secretary of State must publish an assessment of the impact of the Act on business rates appeal waiting lists.”

Member’s explanatory statement

This new Clause would create an assessment of the impact on business rates appeal waiting lists.

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, Amendment 3, to which the noble Baroness, Lady Bakewell of Hardington Mandeville, has added her name, raises the important issue of business rate appeal waiting lists.

As we heard at Second Reading, there are still 40,000 unresolved rating list appeals from 2010—11 years ago. As a result of this backlog, local authorities had to divert more than £3 billion from services to deal with the appeals risk from 2010 and 2017. This is an unacceptable situation; I am sure that the noble Lord, Lord Greenhalgh, would agree with me on that. Local authority finances are under extreme pressure, and this unacceptable situation is being made even worse.

The amendment would place a duty on the Secretary of State to conduct and then publish an assessment of the impact of the Act on business rate appeals. This is an opportunity for the Minister to explain the position of the Government and how they are working to deal with this backlog of appeals. I beg to move.

**Baroness Bakewell of Hardington Mandeville (LD) [V]:** My Lords, I draw the Committee’s attention to my interest as a vice-president of the LGA.

It is a pleasure to take part in this debate and speak to the amendment in the name of the noble Lord, Lord Kennedy of Southwark, to which I have added my name. I am familiar with rating appeal tribunals from my previous life when I sat on domestic rating appeals.

Some had been waiting in the pipeline to be heard for a very long time. The noble Lord referred to these timelines.

However, this is about business rates. Some years ago, before the Government transferred the retention of business rates to local authorities, unitary and district councils were responsible for collecting business rates but had no say in setting them; nor were they able to retain the rates collected. If the local authority had no major facilities in its area that would attract business rates, this was straightforward. However, if there were major infrastructure projects—I use this term loosely—this caused huge problems as, for reasons best known to the Government, these facilities were expected to pay business rates despite not trading as businesses.

I can speak only from my experience of Somerset but feel certain that this situation will have been replicated across the whole country. Taunton Deane Borough Council and South Somerset District Council were lucky enough to have major infrastructure in their areas. In Taunton Deane, it was the MoD camp at Norton Fitzwarren and a large hospital at Musgrove Park, in addition to several superstores. In the case of South Somerset, it was the MoD Royal Naval Air Station at Yeovilton and Yeovil District Hospital, as well as superstores. The MoD bases and NHS facilities are of course funded from central government budgets in the first place. All these assets attracted business rates covering millions of pounds. The MoD, NHS hospitals and superstores appealed against their business rates—the latter were in a slightly different category as they were trading businesses and, hopefully, making a profit, but millions of pounds were at stake.

The Government informed local authorities that they could, if they wished, agree a lower figure with the appellant. However, any difference from the figure originally set and the lower figure agreed by the local authority would have to be made up to the Government from local householders’ council tax. Many of these pending appeals waited four, five, six or even seven years to be heard. As the noble Lord, Lord Kennedy of Southwark, has just said, we have now been waiting more than 10 years for the 2010 appeals. All this time, local authorities were wondering whether they would be faced with massive bills in unpaid business rates that the Government would be expecting to receive. When appeals were heard and were successful, this money was passported back to central government. However, there was also an expectation that any shortfall would be made up by local authorities, so it was a win/lose situation for local councils and their taxpayers.

We now have a situation where local authorities operate under a business rate retention scheme. However, with high street retail outlets and other town centre businesses under extreme pressure because of the Covid pandemic, huge numbers of appeals against business rate assessments are likely.

Household rates and housing benefit levels are set on a sub-regional basis by the valuation office. Our valuation office was based in Bournemouth; the price of a property in Bournemouth was vastly different from the value of one in South Somerset. Can the Minister say whether business rates are similarly set on a sub-regional level and whether the buoyancy of the local economy is considered?

Previously, our town centres have been made up of well-known retail high street clothing stores, yet these have all but disappeared. The brands are being snapped up by online businesses that buy the brand and stock but not the premises, as we have seen this week. My noble friend Lord Stunell has already referred to this. How are local authorities that now depend on business rates to balance their budgets to proceed with an increasing number of empty properties?

Many businesses will survive: insurance agents, estate agents, solicitors, food outlets and supermarkets. However, many supermarkets have long since withdrawn to retail business parks, where there is a significant turnover of retailers as each goes into administration. Mothercare, Staples and Homebase are examples; their premises are often left empty for a considerable time. It seems that now is the time for a radical rethink of just what the Government expect business rates to deliver and what type of business they propose to be classified as liable for business rates. This will now include large warehouse facilities servicing online purchases.

The exponential rise in online shopping has been the saviour of householders who have either been subject to lockdown or, prior to lockdown, isolating to protect themselves due to their underlying health conditions. From my office window, I have an excellent view of the C-grade road that serves the 12 houses in our area. The number of delivery vans going up and down has dramatically increased since Christmas. Whether it is with home deliveries from supermarkets or deliveries by DPD, Yodel or another, they are extremely busy and often call long after it has gone dark. Apart from the supermarkets, the vans are delivering goods that householders have ordered from online businesses. Surely now is the time for these businesses to play their part in the local economy and pay business rates; the noble Lord, Lord Bourne of Aberystwyth, referred to this.

3.45 pm

The noble Lord, Lord Kennedy of Southwark, has set out his rationale clearly. The situation that businesses, both local and national, now face is unsupportable. Local authorities are providing vital services not only in terms of housing, welfare benefits, parking, social care and children's services but, currently, in supporting vaccination centres with admin personnel. The latter is causing some of their routine work to be temporarily put on the back burner. If our councils are also to see a dramatic cut in their income because of non-payment of business rates, we may see some of them having to declare themselves insolvent. There are already examples of this having happened recently.

The number of NDR appeals will rise dramatically. Can the Minister say whether sufficient trained personnel are ready to hear these appeals, or will there be a return to the scenario I started my speech with, where appeals wait years to be heard? It is vital that businesses and local authorities are able to see just what the likely wait for an appeal will be. The regular publication of the numbers waiting for an appeal is vital. Local authorities and businesses could be waiting for huge appeals to be heard with millions at risk, as noble Lords have indicated. This is not good for the recovery of the economy. A rapid system of hearing business appeals is essential and publication of the waiting list within six months

of the passing of this Act would be a reasonable timeframe to assist local authorities to assess the seriousness or otherwise of the situation. I fully support this amendment and look forward to the Minister's response.

**Lord Thurlow (CB) [V]:** My Lords, I thank the noble Lord, Lord Kennedy of Southwark, and the noble Baroness, Lady Bakewell of Hardington Mandeville, for tabling this amendment. I declare my interest as set out in the register. I also take the opportunity to thank the surveyors Gerald Eve for their time and assistance in preparing for this debate.

My concern is the rapid rate of the collapse of high-street businesses—not just the well-known brands that have been referred to but small family businesses, private enterprises and start-ups serving local markets while hoping to succeed, expand and grow. As the noble Lord, Lord Kennedy, commented, the system needs root and branch reform. These retailers' rating assessments are currently based on pre-crisis levels of rental value, but those values have really collapsed. They were set at a time when there was a healthy economy, with low interest rates and constructive market tension in the leasing marketplace, arriving at competitive rents that were exactly what supply and demand required. That has been lost—which is to say, the values have collapsed as turnover has collapsed—and the rates applied and being paid today are much too high.

We have seen this collapse in values for several reasons; the rates payable by these businesses are the final straw. They can appeal, but there will be long waiting lists. We heard the noble Lord, Lord Kennedy, say that there were 40,000 still hanging over, some from 10 years ago. I am afraid, too, that hundreds, if not thousands, of small businesses will be forced to pay the published rates until appeals are heard, whenever that may be. They will of course have long gone and disappeared as businesses by then.

This is why I am absolutely certain that an impact assessment on appeal waiting lists arising from this Act is so important. I consider six months the absolute minimum period to attempt the impact assessment. It is unfortunate—the sooner the better—but I do not see how they can do it in less. The surveyors may be stretched to their limits to process the appeals.

The process involves a check, challenge, appeal programme, which puts the onus of setting rental value for rateable value purposes on the appellant. The only way to arrive at rental value is to look at comparable properties and find the latest rental evidence from the marketplace, which is then applied. But there is virtually no evidence. The markets have been sliding, both for offices and retail, and we know that the rating assessments are now significantly in excess of what they should be.

I mentioned retail, but imagine the difficulty of estimating rental value for offices in two months' time, when the date occurs. Many office buildings are empty or on a skeleton staff rotation. If they are more than a couple of floors tall, social distancing means that you cannot get into a lift. Businesses are, as we speak, considering their future office needs. Working from home, like so many of us are in this debate, means that less square footage is likely to be required. As I said, in the bottom of the trough of this rental crisis, experts will have great difficulty estimating rental values.

[LORD THURLOW]

Will the Minister please impress on the Government the importance of urgency in addressing this rateable imbalance? Businesses are collapsing in all communities. I support the impact assessment on appeal waiting lists, but it is difficult not to imagine that the appeal process will struggle under the weight of appeals, and I urge the Government to prepare for that probability.

**Lord Stunell (LD) [V]:** My Lords, it is a privilege to speak after the noble Lord, Lord Thurlow, because he has more or less stolen my thunder, which means I can be really quite brief. He outlined very clearly a common thread in all the debates so far today: the absolute urgency of getting this problem fixed. We all know that it needs a longer-term fix, with a complete overhaul of the system, but, if we are to stay where we are with the current system unamended while we wait for that golden day of amazing reform, I fear that many businesses in the country will collapse and fail, not just in the high streets, but, as the noble Lord, Lord Thurlow, so elegantly and persuasively said, in the office sector and elsewhere. Something has to be done in the meantime—which, of course, was the burden of some of the earlier debates.

The point of the amendment and the impact review is to challenge the Government by saying that what they propose to do—or, perhaps more accurately, what they propose not to do—will leave many businesses in profound despair about how they will manage in the next 18 months or two years. It is obvious that many people will appeal. The number of appeals will be large, not small, and if we start with a backlog from the previous system, that will get worse still.

My noble friend Lady Bakewell asked the Minister some piercing questions that I hope he will respond to about the efforts being made to train panels and find the expert support needed to get the appeals in the system moving through at a proper level. What about the waiting times? Is the Minister, or indeed the VOA, setting a target to deal with this backlog to make sure that it does not pile up behind the new unfolding situation? The noble Lord, Lord Kennedy, has already pointed out the 40,000 appeals. I know that some of those are very specific to one or two topics, but that is not quite the point: one or two specific topics might crop up in this round of appeals and this revaluation that will cause similar problems.

So I strongly support the thrust of the amendment and I believe that we do need an impact assessment. We need some positive action from the Government and I look forward to hearing how the Minister proposes that that should happen.

**Lord Greenhalgh (Con):** My Lords, this proposed new clause would require the Secretary of State to publish an assessment of the impact of the Act on the appeals waiting lists. The Government recognise the importance for businesses and local government of having an effective appeals system. The process we have put in place allows ratepayers to understand how their rateable values have been assessed and how to challenge those valuations where they feel that is necessary. Of course, changes to the revaluation cycle can impact on the appeals process, so I welcome the opportunity to consider this through the amendment.

I will first explain the system for appealing rateable values. The Government introduced the check, challenge, appeal system in 2017, known as CCA, because the previous system was failing. Over 1 million cases were received from ratepayers on the 2010 rating list. Many were submitted with little or no evidence and around 70% of Valuation Office Agency appeals resulted in no change. This delayed the VOA's ability to deal effectively with well-founded cases.

The CCA system introduced a new “check” stage, at which ratepayers must first check and confirm the details of their property. This ensures that factual matters are resolved without any further action. At the next stage, “challenge”, the ratepayer must set out the basis of their case. This provides that only substantive cases progress into the system to be considered by the VOA. The final stage, “appeal”, allows the ratepayer access to the independent Valuation Tribunal, but only where they have exhausted discussions with the VOA. The amendment as drafted is concerned only with the last stage, “appeal”, but I trust that the Committee will want me to discuss more generally the CCA system.

By March 2020, the VOA's CCA system had been showing modest volumes: around 158,000 checks and only 31,000 challenges. Of course, the pandemic has increased these numbers, and as of 31 December 2020 the VOA had registered over 440,000 checks and over 90,000 challenges. Of these, the VOA has resolved over 400,000 checks and 24,000 challenges.

Nevertheless, I know that some ratepayers and agents have concerns about how CCA operates. The Government acknowledge the issues ratepayers faced when CCA launched, particularly with the software and the use of the system. However, the VOA has improved, and continues to improve, its service for ratepayers. This includes changes to enable CCA users to submit multiple property claims, as well as improvements to the registration process to make it simpler and quicker to register.

In February last year my department published an interim review of the CCA system. Although we recognised that it was still too early to fully judge the system, the review concluded that the reforms were helping to reduce the number of speculative appeals and to improve engagement between ratepayers and the VOA.

I know that noble Lords are also concerned with a number of cases—around 50,000—that have been outstanding for longer from the 2010 rating list. In fact, the majority of the 2010 appeal backlog cases concern ATMs and were stayed pending the outcome of a Supreme Court case. So these cases did not impact on most businesses and the delay was largely outside the VOA's control. The Supreme Court issued a decision on this matter on 20 May 2020 and I can assure noble Lords that these outstanding 2010 cases are now being settled quickly.

As the amendment we are considering highlights, the CCA process is, of course, affected by the frequency of revaluations. Looking specifically at the Bill's provisions, to ensure that rateable values better reflect the impact of the pandemic, the Bill will move back the next revaluation to 2023. This of course will give the VOA and the Valuation Tribunal at least an extra year to clear cases on the 2017 rating list ahead of the next revaluation.

More generally, as I set out at Second Reading, the Government are undertaking a fundamental review of business rates. This includes a commitment to look at more frequent revaluations, and we would need an appeals system which supported that. The fundamental review will therefore also examine what reforms might be necessary to the CCA system to support more frequent revaluations.

The call for evidence on the review was published in July and asked respondents to provide proposals for changes to each stage of CCA to improve the system, while recognising ratepayers' desire for a quicker resolution of cases and greater transparency. The Government are currently considering the responses to the call for evidence, and the review will conclude in spring 2021.

I hope that I have been able to reassure your Lordships about the importance that we place on delivering an effective, functioning appeals system that resolves cases in a timely manner. The proposed new clause raises important questions about appeals and the frequency of revaluations, which the Government are already fully considering as part of the fundamental review. I hope that, with those assurances, the noble Lord, Lord Kennedy, can agree to withdraw the amendment.

4 pm

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, I thank all noble Lords for their contributions to the debate. I agree with all the remarks of the noble Baroness, Lady Bakewell of Hardington Mandeville. She is right when she calls for all online businesses that deliver goods bought online to pay their fair share of taxes.

The noble Lord, Lord Thurlow, made a compelling case for intervention to stop the rapid collapse and decline of businesses on our high streets. No one wants to see, in effect, an end to our high streets, but that is what we will face if the Government do not take urgent, effective action. I fail to see why they are not acting with more urgency on this. They have given no convincing reason or justification either today or previously when these matters have been discussed.

The point that the noble Lord, Lord Thurlow, made about offices is exactly the conversation that we are having at MHS Homes, where I am a non-executive director. We have a fantastic office in Chatham, where all the staff, except those working on the ground, were based, but we are now wondering what our operation will look like in the future. There is nothing unusual about that—many organisations and businesses are having exactly the same conversation about what to do.

I will look carefully at the response from the noble Lord, Lord Greenhalgh, but I may well decide to bring this issue back on Report. However, at this stage, I am happy to withdraw the amendment.

*Amendment 3 withdrawn.*

**Baroness Watkins of Tavistock (CB):** We now come to the group consisting of Amendment 4. I remind noble Lords that anyone wishing to speak after the Minister should email the clerk during the debate.

#### *Amendment 4*

*Moved by Baroness Pinnock*

**4:** After Clause 1, insert the following new Clause—

“Impact of timing of business rates revaluations: high street and online businesses

- (1) Within six months of the day on which this Act is passed, the Government must carry out a review of the impact of this Act on local high streets.
- (2) The review under subsection (1) must make an assessment of the impact of the timing of business rates revaluations on high street businesses and their ability to compete with businesses operating mainly or wholly online.
- (3) The Government must lay a copy of the review under subsection (1) before both Houses of Parliament.”

Member's explanatory statement

This new Clause would require an impact assessment of the timing of rates revaluations on local high streets, particularly looking at the impact on their ability to compete with businesses that operate online.

**Baroness Pinnock (LD) [V]:** My Lords, the purpose of Amendment 4, which stands in my name and that of my noble friend Lord Shipley, is to open up a debate about the revolution taking place in the retail sector. It is a revolution that is being accelerated as a consequence of the pandemic, which has resulted in the non-food retail sector being in shutdown for many months, with a very large transfer of shopping to online retailers. Retail analysts suggest that this significant change in shopping habits is here to stay.

Recent reports on the retail sector make the same points. Bill Grimsey, in his report in 2018, described the effect of business rates on the retail sector as “malevolent” and one that hinders growth. Business rates are, of course, just one inhibiting factor that affects the vibrancy of the physical high street. However, it is like a weather vane, indicating that all is not well with the retail elements of our town centres.

The array of shopping giants that have closed in recent years is a health warning that the Government do not appear to be heeding. Toys “R” Us, Maplin, Poundworld and others closed their doors in 2018. This year, a staple of the high street, Debenhams, is finally closing its physical presence on the high street. The Arcadia Group, which includes a string of well-known brands in many towns, is in administration. There seems little prospect of any of them reopening their shop doors; the businesses will simply go online.

The combination of closures is a large hit on many towns, as those businesses provided both an attractive shopping experience and business rates income for local authorities. The Government really do have to address this with some urgency. The problem is well known: physical retailers have financial overheads that their online equivalents do not.

The comparison of overheads in terms of business rates is stark. In my own town of Cleckheaton in West Yorkshire, an average-sized shop on the main street with 30 square metres of floor space is paying at the rate of £250 per square metre, resulting in a rates bill of around £3,750 per annum. A large Amazon warehouse adjacent to a nearby town in Yorkshire has 40,000 square metres of floor space. The rate per square metre for this giant in the retail sector is £45 per square metre.

[BARONESS PINNOCK]

This results in a business rates bill of £900,000 per annum. If Amazon, as an example—there are others—were required to pay at the same rate as this smallish shop in a small town centre in West Yorkshire, its rates bill on this warehouse alone would be £5 million per annum. That is why attempts to save our high street will fail unless this hugely unfair advantage enjoyed by online retailers is addressed—hence the amendment from the Liberal Democrats.

The very least that the Government should do is to review the impact on local high streets and assess whether the new revaluations harm even further the ability of the retail sector to compete successfully with online businesses. We cannot, like the myth of Canute, hold back the tide of change in shopping habits. However, what the Government can and should do is provide a level playing field for retailers. This is not a problem that can be kicked down the high street in the hope that the sticking plasters of high-street and town funds from the Government will stem the demise of town centres; nor is there an easy solution, but then Governments are elected to deal with difficult problems.

There is an urgency in finding a solution, as I have indicated. Will the Minister provide any certainty for high-street retailers that the Government accept that a revolution in retail habits has to be accompanied by a revolution in business rates? I look forward very much to the Minister's response.

**Lord Thurlow (CB) [V]:** My Lords, I thank the noble Baroness, Lady Pinnock, for tabling this amendment, together with the noble Lord, Lord Shipley.

There is no doubt that an impact assessment of the new valuations on the high street is worthwhile and important. It is actually vital. We have already seen the change in the high street referred to by the noble Baroness, Lady Pinnock. The former retail parades that once flourished now see nail bars, estate agents, coffee shops and charity shops proliferate. I am delighted, of course, for the charity shops and their sector, but please understand that many of these shops are paying a 20% rates bill and are there because their landlords heave a sigh of relief that they have found someone to relieve them of the burden of the empty premises rates that would be applied after they have lost their traditional tenant.

Our high streets and shopping centres are the focus of local communities. Social health and welfare to some extent depend on them. We cannot afford to lose them because of unrealistic operating costs. I was very pleased when the noble Lord, Lord Greenhalgh, referred just now to the Government's recognition of the importance of vibrant town centres. The health of those centres lies in the gift of the Government, right now, and in their ability to construct fairness in the apportionment of the NDR burden.

This amendment includes reference to the ability of high streets to compete with online. It is an often-discussed subject, and the urgency of rebalancing the rates burden could not be more pressing. The noble Baroness, Lady Pinnock, mentioned Amazon. I saw in today's *Times* an appalling reference—appalling to me, anyway—

that £1 in every £20 spent on retail is spent through Amazon. I assume this was a reference to last year, or to the last accounting year.

Amazon, of course, is a giant, but there are hundreds of online retail businesses and we are right in the midst of a massive societal transfer of shopping habits from the traditional shop or store in or out of town, in or out of a covered shopping centre, to online. Covid, of course, has forced that rate of change to accelerate faster than it otherwise would—but it was a concern many years ago.

There are numerous constructive proposals to recoup a fairer contribution from the online sector to the tax base. To equitably rebalance the transfer of sales between online and the high street may require a 40% reduction in the high street burden. That is a huge reduction. I am afraid that the Treasury cannot expect revenue neutrality by simply transferring this across to other commercial sectors. The slack is just not there, particularly if we have to take a reduction from the office sector as well. Logistics, industrial and warehousing will not fill the gap. That is a real worry and a concern. Local authority funding has been referred to already, but I am afraid that it is something that needs addressing.

I support the amendment. The health of the high street cannot wait for the results of the fundamental review that was discussed at Second Reading and has been mentioned by the noble Lord, Lord Greenhalgh. I was very grateful for that, but the issue is too pressing.

My principal concern remains the difficulty of assessing rental value in these most uncertain times. I do not think that it will be possible. Appeals may descend into chaos. Certainly, I predict long delays. Rental values will have to be assessed post Covid, not in eight weeks' time. A short-term arrangement will be necessary for the non-domestic ratepayers on the high street and in the retail sector to cope with the transfer to online, and I hope that the Minister will be able to make some constructive comments to help give comfort to all of us who are concerned.

4.15 pm

**Lord Shipley (LD) [V]:** My Lords, I first remind the Committee that I am a vice-president of the Local Government Association.

The noble Lord, Lord Thurlow, has made some very salient points, notably that it is vital that urgent action is taken to help high street businesses by reducing their operating costs. I recall the noble Lord, Lord Thurlow, saying at Second Reading—and again today—that it would prove very hard to estimate rentable and hence rateable values for the traditional retail sector even with this deferral, because new lettings will for the time being be rare events.

When I spoke at Second Reading, I pointed out that retailers pay over a quarter of business rates in England and Wales. That is a very large amount of money, but it will now decline significantly as less is generated from high streets. There is, though, an immediate opportunity to even up business rate receipts by switching a greater burden from the high street to online businesses through the revaluation process itself, because we do not have a fair balance at the moment.



At Second Reading, the Minister said the Government would report in the spring on its fundamental review of business rates. He said he was

“sure that the fundamental review will look at alternative taxes to capture the shift in our shopping habits.”—[*Official Report*, 18/1/21; col. 1069.]

I welcome that and hope it happens, and I draw his attention to the potential for an e-commerce levy on online businesses.

As we have heard, the move online of Arcadia brands and Debenhams in recent days represents what seems to be an irreversible trend—but that cannot be allowed to mean lower rents and rates for online businesses at the cost of the high street. This proposed new clause would require an assessment of the impact of any business rates revaluation on local high streets to be undertaken within six months, looking in particular at the ability of high street retail outlets to compete with the huge retail businesses that operate online.

The timing could fit well—if the Government wanted it to—with the fundamental review of business rates, and I hope that they will take the opportunity provided by the amendment. It would be strongly and warmly welcomed by high street retail businesses because, as the noble Lord, Lord Thurlow, said a moment ago, the matter has become very urgent.

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, Amendment 4, moved by the noble Baroness, Lady Pinnock, seeks to insert a new clause into the Bill which, as we have heard, would require an impact assessment of the timing of rates revaluations on local high streets and, importantly, would look at the impact on their ability to compete with businesses that operate online.

We have a serious problem with our high streets. The problem was in many cases a crisis before the pandemic, as we have discussed today on previous amendments. We can all point to the closed and boarded-up shops in areas that we know. The pandemic has created an even more serious problem for high streets and has put many businesses at risk. We need action from the Government to deal with all the issues that are destroying our high streets and our shopping parades.

We will all have seen the news that Boohoo is purchasing Debenhams and that ASOS is purchasing Topshop, but they are purchasing the names and not continuing with their high street presence. Why they are doing that is the question we need to look at. Clearly, they have taken the view that they do not need, or that it is too expensive to operate, a high street presence. This is why urgent action is needed. The issue with online retailers needs to be addressed. It has been discussed in the other place. My honourable friend the Member for Manchester Central, Lucy Powell MP, has said:

“The pandemic has accelerated changes to the way we shop, yet the government continues to disadvantage bricks and mortar businesses against online companies ... The support on offer for struggling business has been a series of sticking plasters. Unless the Government puts in place a long-term plan to help high street businesses survive this crisis and recover on the other side, we will see more well-loved high street names vanishing, and many more jobs lost.”

I could not agree more. I also agree with the noble Lord, Lord Thurlow, that we need vibrant, healthy town centres. As he said, the power to help the high street is in the hands of the Government. I hope the Minister will address that point.

**Lord Greenhalgh (Con):** My Lords, I am grateful to the noble Baroness, Lady Pinnock, and the noble Lord, Lord Shipley, for a further opportunity to speak about our high streets. As I outlined when we debated the second group of amendments today, we will not know the impact of the revaluation on rates bills until later in 2022, so it would not be possible to produce now the report outlined in the amendment we are discussing. However, we can be sure that, once we publish draft rateable values alongside the multiplier and the transitional relief scheme later in 2022, ratepayers will be able to see precisely how revaluation will affect their rates bills.

The noble Baroness, Lady Pinnock, raised an important point about online businesses compared to those that operate on the high street. Businesses which sell mainly or wholly online do not avoid business rates. They may also operate shops—many high street retailers also sell online—and they will require significant warehouse and distribution facilities, often in high-value locations. Nevertheless, business rates are a tax on the use of property and the rates bill is based on the value of the property. It follows that business models that occupy less property and perhaps operate from less valuable locations will pay less in business rates.

Property taxes have several key advantages over other forms of business taxation: they are relatively efficient to collect, they provide a relatively stable source of revenue to local government that helps ensure the provision of essential public services, and they provide relative certainty for ratepayers from one year to the next. However, there is undoubtedly a click-and-collect revolution, as outlined by the noble Baroness, Lady Pinnock, and the noble Lord, Lord Kennedy. The Treasury’s fundamental review of business rates is considering alternatives taxes, including a potential online sales tax. The review will need to consider matters such as the economic impacts of such a tax and assess the concerns and risks that have been raised in the call for evidence.

Supporting the high street is a priority for us. In this year alone, no retailer on the high street is paying business rates. With the assurance that the matter of online business is being considered as part of the fundamental review and the updating of rateable values to better reflect the impact of the pandemic which will come from the 2023 revaluation, I hope that the noble Baroness, Lady Pinnock, and the noble Lord, Lord Shipley, can agree to withdraw their amendment.

**Baroness Pinnock (LD) [V]:** My Lords, I thank all noble Lords for their contribution to this short but very important debate. The noble Lord, Lord Thurlow, has stressed again the high impossibility of assessing rental values in the current climate. I hope the Minister will discuss with his department how rental values are to be assessed while the pandemic is rife.

[BARONESS PINNOCK]

My noble friend Lord Shipley reminded the Government of the potential of an online tax to create a level playing field for all retailers. I thank the noble Lord, Lord Kennedy, for his support. All noble Lords who have spoken have emphasised the urgency of responding to the situation facing our high street retailers. A revolutionary reform is needed. How much longer are online businesses to escape a fair assessment, compared with physical retailers? I am pleased that the Minister has just said that the Government are considering online taxes in the business rates reform, but I remind him that town centres cannot wait much longer. I beg leave to withdraw the amendment.

*Amendment 4 withdrawn.*

*Amendments 5 to 7 not moved.*

*Clause 2 agreed.*

*Bill reported without amendment.*

**The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab):** My Lords, that concludes the Committee's proceedings on the Bill. I remind Members to sanitise their desks and chairs before leaving the Room.

*Committee adjourned at 4.26 pm.*