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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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

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

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

House of Lords

Tuesday 23 February 2021

The House met in a hybrid proceeding.

Noon

Prayers—read by the Lord Bishop of Newcastle.

Arrangement of Business

Announcement

12.06 pm

The Deputy Speaker (Lord Alderdice) (LD): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, others are participating remotely, but all Members will be treated equally. I ask all Members to respect social distancing. If the capacity of the Chamber 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.

Schools: Online Learning

Question

12.07 pm

Asked by ***Baroness Blower***

To ask Her Majesty's Government what progress they have made towards providing laptops and tablets to those pupils who require such equipment for online learning.

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con) [V]: My Lords, the Government are investing more than £400 million to support access to remote education and online social care services, including securing 1.3 million laptops and tablets for disadvantaged children and young people. To date, we have delivered more than 1 million laptops and tablets to schools, trusts, local authorities and further education providers. We are making further deliveries all the time and expect to achieve our overall commitment to delivering 1.3 million devices by the end of the spring term.

Baroness Blower (Lab) [V]: I thank the noble Baroness for her Answer—those are, indeed, very big numbers. However, Ofcom reports that between 1.1 million and 1.8 million children have no access to a device at home and 880,000 live in a household with only mobile internet connection. The Sutton Trust reported in January that only 10% of teachers felt that their students had adequate access to a device for remote learning, while 17% say that their students have no access at all. The gap in internet access has grown, with 21% of deprived schools reporting that one in five do not have adequate access. Even if all schools manage to open and remain open from 8 March, devices and internet access will remain important for all young people's learning, so what more will the Government do to close the digital gap?

Baroness Berridge (Con) [V]: My Lords, the noble Baroness is correct that, going forward, remote education will be part of children's lives. On connectivity, the Government have distributed 60,000 4G wireless routers and have negotiated data deals with many of the mobile phone providers to ensure that parents can have their data limit lifted to enable their children to access remote education. The devices that I have outlined are in addition to the 2.9 million devices that were already present in schools before the pandemic began.

Lord McCrea of Magherafelt and Cookstown (DUP) [V]: My Lords, I acknowledge the Prime Minister's desire to have children back in the classroom, but how will the noble Baroness ensure that pupils who have had no equipment for online learning over the past number of months at home will not be left educationally disadvantaged? Even yet, can they receive laptops and tablets, or what special measures will be taken to assist them to regain lost educational tuition?

Baroness Berridge (Con) [V]: My Lords, those children who were without connectivity or were struggling to engage with education at home could be brought into our schools in England and classified by teachers as vulnerable children, to ensure that they were gaining access to education. Only schools will know how much learning has been lost by students, but we have commissioned Renaissance Learning and the EPI so that we can know, as soon as possible, the data on lost learning in order to help children catch up.

Baroness Sanderson of Welton (Con): My Lords, with the return of schools next month, are there plans to distribute in the long term the many devices that have been provided to those children on the wrong side of the digital divide?

Baroness Berridge (Con) [V]: My Lords, the devices that we have distributed remain the property of local authorities, schools or multi-academy trusts, and we expect them to use those devices flexibly going forward. For instance, if they are running summer schools for some year groups, they can call devices back in from certain pupils and redistribute them. We expect, in the medium-term and long-term, to make sure that the best of our teaching is available to most pupils in this country by using remote education.

Lord Hastings of Scarisbrick (CB): My Lords, I declare my interest as a governor of the Vodafone-supported M-PESA Academy in Nairobi, Kenya, where every one of our 820 children from the poorest communities in the country have a fully functioning Apple iPad and 4G, both at their home or village community, area or school to support their learning. Given the huge and ongoing task of catch-up that will be required and the skills development after schools go back here in the United Kingdom, have the Government engaged with the tech, mobile and computer hardware companies, all of which have made massive profits during the pandemic because of homeworking, with the duty to give them a public citizenship role in gifting equipment and wi-fi to the families and children most in need? If not, why not?

Baroness Berridge (Con) [V]: We are grateful to have the technology that we have in order to make remote education available. The Government have committed a further £300 million to the tutoring catch-up. We are aware of many companies that have, in the past, been involved in our school system. I take inspiration from the noble Lord and will look at whether now is also the time to ask them to make a contribution. Many have been successful in sponsoring academies, et cetera, in the past.

Baroness Bakewell (Lab) [V]: My Lords, the start that has been made by the Government is commendable. Of course, this money and gifting of laptops to children are important, but never will that be more important than on their return to school in March. The young people will notice the differential between themselves and their colleagues. Is there any way of speeding up this initiative to endorse the government policy of helping children to catch up? Speed and range of facilities provided to the homes of young people will be crucial so that they can use those laptops at home.

Baroness Berridge (Con) [V]: In addition to the connectivity that I have outlined, I pay tribute to the school staff who have helped many parents to use the equipment that has been provided to access online lessons; we must not forget their role in skilling up parents to enable this access for children. Yes, indeed, this is part of the system going forward, so we will look to make sure that children have the access that they need to these devices, as well as the connectivity. We are also looking to invest in rural connectivity, because, of course, some of the schools have connectivity issues as well.

Lord Storey (LD) [V]: My Lords, it is good news that our children and young people are returning to school soon. Moving forward, does the Minister see a role for virtual learning in future, perhaps as a means of supporting home-educated children, for example?

Baroness Berridge (Con) [V]: We are overjoyed at the prospect that on 8 March all our children will return to school. We have provided these devices at a time of global disruption of supply, so have done very well in managing to obtain such a large amount. We are looking at—and welcome all Peers' contributions on—how we can ensure that, in what has been invested in with this £400 million, we take the best that has developed in these terrible circumstances in terms of remote education and ensure that children can benefit from it going forward.

Baroness Gardner of Parkes (Con) [V]: My Lords, I am told that the provision of laptops and tablets has improved since the first lockdown but that challenges remain even once a person has been loaned or given one. Will the Minister look at what can be done to help provide internet access and training on such devices? I have spoken on this before. Will she consider adopting the Royal Borough of Kensington and Chelsea's approach of seeking internet access in all its social housing? I commend this approach to the Government for widespread use.

Baroness Berridge (Con) [V]: My Lords, as I outlined, we are aware of the connectivity issues for various homes and schools and have provided peer-to-peer training and support across the school system through our EdTech demonstrator schools. Some 6,900 schools have been given access by the department to Microsoft Education or Google Classroom during the pandemic. In building our infrastructure in future, as the noble Baroness described, connectivity will be essential.

Lord Watson of Invergowrie (Lab) [V]: My Lords, in response to an Oral Question from my noble friend Lord Blunkett on 11 February, the Minister stated, as she did earlier today, that the Government had invested

"more than £400 million to support access to remote education … including … 1.3 million laptops and tablets for disadvantaged children and young people."

While that is certainly welcome, she did not answer the specific Question asked by my noble friend regarding

"the number of children who are not eligible for face-to-face teaching who have not been able to access online teaching for more than 80 per cent of the normal timetable in … 2021."—[*Official Report*, 11/2/21; cols. 484-5.]

Will the Minister take this opportunity to answer that Question?

Baroness Berridge (Con) [V]: The instruction given to schools on the amount of remote education also included that teachers were to monitor whether children were engaging with that education. It is not possible for the department to collect that kind of granular data on a day-to-day basis. Teachers are in front of the students virtually and we put the obligation on them to monitor that. If they were aware that children were not engaging remotely, they had the ability to bring them into school as a vulnerable child.

The Deputy Speaker (Lord Alderdice) (LD): My Lords, the time allowed for this Question has elapsed. I am sorry that Members, both remotely and in the Chamber, were not able to be reached.

Trees

Question

12.17 pm

Asked by ***Lord Clark of Windermere***

To ask Her Majesty's Government what steps they are taking to balance (1) carbon sequestration, and (2) biodiversity, in their plans to plant 30,000 hectares of trees annually.

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con) [V]: My Lords, trees are an essential part of our nation's biodiversity, and existing native woodlands are recognised as priority habitats. Tree planting is a nature-based solution that can expand habitats and help to address the twin challenges of climate change and biodiversity loss. Through our £640 million nature for climate fund, we will ensure that trees are grown,

selected, planted and managed appropriately to provide multiple benefits for the climate, nature, people and the economy in supporting a green recovery.

Lord Clark of Windermere (Lab) [V]: While the Government's plans to increase tree planting are laudable, they must not be at the expense of destroying peatlands, which capture much more carbon than my beloved trees. More carbon is stored in our peatlands than in all the forests of France, Germany and the UK put together. Can the Minister give me an assurance that the Forestry Commission will neither be forced by government targets to plant upland peat bogs, which are our national equivalent of rainforests in terms of carbon capture, nor have to grant-aid private landowners to do so?

Lord Goldsmith of Richmond Park (Con) [V]: I can absolutely provide the noble Lord with that assurance. In recognition of the importance of peatlands, we are aligning our various strategies, including the England tree strategy and the peat strategy, and we hope that, combined, they will set out a long-term approach to fulfilling our international biodiversity commitments and 25-year environment plan, in addition to restoring and protecting our peatland and expanding tree cover. It is essential that we plant trees in the right place. Deep peatlands are absolutely not the right place for tree planting, and we recognise that.

Baroness Quin (Lab) [V]: My Lords, I refer to my non-financial interests in the Northumberland National Park as listed in the register. There we have seen the massively increased planting of Sitka spruce, aided by subsidies, to the detriment of biodiversity. In view of what the Minister said about priority habitats a minute ago, will the Forestry Commission and others be required to follow the 10 golden rules of the Royal Botanic Gardens at Kew and not plant the wrong trees in the wrong places?

Lord Goldsmith of Richmond Park (Con) [V]: I can also provide the noble Baroness with the reassurance that she is looking for. Given that we will use public money to deliver much of the plan for trees that we have and that was in our manifesto, we want to achieve the biggest possible return for taxpayers. That means using those funds and the wider programme to deliver for biodiversity, people and climate change. Our strong default position will be for mixed native woodlands and, in some cases, facilitating the natural regeneration of land in the right places.

Baroness Parminter (LD) [V]: My Lords, President Biden has launched the Civilian Climate Corps, echoing Roosevelt's programme after the economic slump of the great depression, which created thousands of public jobs, transformed the US natural infrastructure and planted 3 billion trees. Will the Government introduce a national nature service to tackle carbon, build biodiversity and create green jobs?

Lord Goldsmith of Richmond Park (Con) [V]: I cannot make the guarantee that the noble Baroness asks for, but the Government's combined intention to tackle the appalling biodiversity loss of the last few decades and to reverse the tree loss we have seen over a longer period will set us on track to turn the trajectory of decline around in the quickest possible time, as we committed to in our 25-year environment plan. The Prime Minister announced just a few months ago that we are committed to signing up alongside other countries to protect 30% of our land and 30% of our oceans by 2030—the end of this decade—and the funds have been set aside to enable us to do so.

The Earl of Shrewsbury (Con): My Lords, to plan to plant 30,000 hectares of trees annually is a massive task. Where will the land come from? Will it include moorland? Is my noble friend aware that many years ago, when tax advantages were open to tree planting, the Cabrach hills at the source of the River Deveron in Banffshire were planted incorrectly? The damage to the river system was severe and lasting. Who will advise Her Majesty's Government on good practice?

Lord Goldsmith of Richmond Park (Con) [V]: My noble friend makes a really important point. It is a huge task, and we need to get it right. There have been many mistakes over recent decades, including the example he just cited. We need all new tree planting and natural regeneration to be done appropriately and in a way that maximises all the multiple benefits of trees and woodlands and avoids the mistakes of the past. The Forestry Commission, Natural England and the Environment Agency work collectively to advise both government generally and landowners specifically on individual planting proposals which align with regulatory best practice.

Lord Carrington (CB) [V]: My Lords, I declare my interests as in the register. This essential balance can be achieved only if the growers of these trees in less-afforested areas achieve a commercial return. However, that return will be dependent on producing carbon units at points in the future, and that is not guaranteed when factors largely outside of grower control, such as squirrel and deer damage, drought, disease and soil deficiency, could affect the trees and thereby carbon sequestration. Why would a grower take this gamble?

Lord Goldsmith of Richmond Park (Con) [V]: The financial incentives we will put forward as part of our England tree strategy are designed to ensure that it is in the economic interests of landowners big and small to join us in this huge national endeavour to plant 30,000 hectares of trees per year by 2025. But the noble Lord raises the problem of invasive species, citing grey squirrels, and he is right. The Government are committed to doing all we can to tackle this issue. We continue to fund research into the best possible mechanisms for tackling grey squirrels and other species, such as muntjacs, and it remains a priority issue for Defra.

Baroness Hayman of Ullock (Lab) [V]: Huge numbers of larch have been felled in recent years in the Lake District National Park to try to contain deadly fungal disease. What plans do the Government have to support the planting and, importantly, maintenance of native species to replace these lost trees, improve biodiversity in the park and preserve and create habitats where red squirrels can thrive?

Lord Goldsmith of Richmond Park (Con) [V]: As I have said, the default position and the Government's priority when it comes to deploying the funds put aside for this programme will be in favour of mixed woodlands—either planted or as a result of natural colonisation—in the appropriate areas. We want that diversity back. In the case of some of these appalling tree diseases which threaten iconic species—ash dieback, for instance—we have specific programmes. We know that a large number of ash trees will become infected, but not all of them will die. We expect that 1% to 5% will show tolerance, so we are funding research into future breeding programmes of tolerant trees. We are conducting, I believe, the world's largest screening trials and will plant the first of the tolerant trees later this year.

Lord Jones of Cheltenham (LD) [V]: My Lords, a young plantation is an emitter of CO_2 for the first few years so will not help in achieving a short-term target. How long does the Minister think it will take for net carbon reduction to occur?

Lord Goldsmith of Richmond Park (Con) [V]: The noble Lord is right that the value of trees to carbon sequestration does not begin immediately. It can take up to seven years, depending on the tree variety and the quality of the land. But our commitment to planting at least 30,000 hectares a year, or allowing the natural regeneration of up to 30,000 hectares a year, across the UK by 2025 is based on advice from the committee on climate change, which recommended that figure as a minimum to help us to reach our net-zero emissions target by 2050.

Baroness Hoey (Non-Afl): My Lords, the Woodland Trust has just cancelled an order for 22,000 trees from mainland GB for Northern Ireland, and it specifically said that it is because of the ban on British soil coming from GB to Northern Ireland—I repeat, the ban on British soil going from one part of the United Kingdom to another. Does the Minister understand just how devastating the protocol will be on the biodiversity of Northern Ireland woodlands?

Lord Goldsmith of Richmond Park (Con) [V]: The situation described by the noble Baroness makes no sense whatever, and she makes the point very clearly and powerfully. I will take her comments away and convey them to colleagues in my department and across government to see what—if anything—can be done to restore common sense to the situation that she describes.

The Deputy Speaker (Lord Alderdice) (LD): My Lords, the time allowed for this Question has elapsed, and I regret that it has not been possible to reach all noble Lords on the list here in the Chamber or remotely.

Belarus

Question

12.28 pm

Asked by ***Lord Mann***

To ask Her Majesty's Government what assessment they have made of the state of democracy in Belarus.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, last year's rigged presidential elections and Lukashenko's brutal crackdown against those calling for change has resulted in a human rights crisis in Belarus. The Government have been at the head of the international response, prompting an independent investigation into violations through the OSCE, implementing sanctions and increasing support to civil society and independent media.

Lord Mann (Non-Afl): What timidity we have in the face of the longest-standing communist regime anywhere in the world. Where is the loudness of the voices, including our voice, so that the people in Belarus can hear them? What are we specifically going to do about the journalists recently jailed purely for reporting what the people are doing in Belarus?

Lord Ahmad of Wimbledon (Con): My Lords, I assure the noble Lord that, as I have already said, we are working through the OSCE. There are specific recommendations from the OSCE which need to be implemented. We have consistently called for the release of all human rights defenders. The noble Lord is right to draw attention to media freedom. As leaders of the Media Freedom Coalition we have supported journalists, particularly those who have been imprisoned, and the noble Lord will note that the Association of Journalists in Belarus was given recognition for its work by Canada and the United Kingdom at last year's Global Conference for Media Freedom.

Lord Collins of Highbury (Lab): My Lords, the Minister referred to the OSCE's mechanism, and of course I welcome the UK-Canada joint statement from last week. However, can he tell us: of those recommendations, a large number of which relate to the actions of the Belarus Government, what are the international recommendations, where are we in terms of their implementation, and what are we doing to ensure that we get others to follow our lead?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Lord is again right to raise this issue. Last week we issued a joint statement on media freedom but also on the broader rights of human rights defenders, as well as calling for a cessation of the continuing raids, including on trade union offices. On specific actions we have taken already, we continue to use the mechanism of sanctions and are looking to act on it in accordance with other countries as well, and we will look at other measures we can take against Belarus while applying pressure on Russia, which of course supports the current regime in Belarus.

Lord Bowness (Non-Afl) [V]: My Lords, I welcome the Minister's support for the OSCE efforts, but in this instance there is a case for dialogue as well as sanctions. Have any Ministers met with Svetlana Tikhanovskaya, the leader of the opposition currently in exile in Lithuania, and offered her any assistance to achieve dialogue with President Lukashenko's regime? Secondly, what are Her Majesty's Government doing to support the chairman in office of the OSCE, who has offered, subject to Covid restrictions, to visit Minsk? I declare

my position as president of the OSCE Parliamentary Assembly, which is itself ready to support efforts to achieve dialogue on reform in Belarus.

Lord Ahmad of Wimbledon (Con): My Lords, on my noble friend's second question, we have already urged Belarus to co-operate directly with the OSCE on implementing the recommendations. On his first question, my right honourable friend the Foreign Secretary has engaged directly with the opposition leader to see how we can further assist her efforts.

Lord Astor of Hever (Con) [V]: My Lords, the police have been brutal in beating up protesters. Can the Minister confirm that the Government have not authorised the sale of any equipment to Belarus that could be used against protesters?

Lord Ahmad of Wimbledon (Con): My Lords, I can confirm that to my noble friend. Further, I assure him that from August last year, any defence and security co-operation has been suspended by the Defence Secretary, and that the defence co-operation we did extend amounted to training, survival training and language training and was not specific to particular equipment.

Baroness Northover (LD): My Lords, have the Government taken any measures to set up a formal arrangement with the EU so that we can jointly and more effectively address the situation both in Belarus and in Russia, and are we closer to giving proper recognition to the EU ambassador to the United Kingdom, which might also help?

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Baroness's second question I will revert to the House once I have confirmation as to the way forward. On her first question, we are working very closely with our EU partners, including at the Human Rights Council and at the OSCE, and we continue to engage directly with the likes of France and Germany on this matter.

Baroness Helic (Con) [V]: My Lords, yesterday 17 year-old Nikita Zolotarev was sentenced to five years in a correction colony, having been beaten up and having had law enforcement use an electric-shock baton on him. Can my noble friend tell the House what specific steps the Government are taking to work with the United States and our EU allies to respond to these abuses aimed at children and teenagers?

Lord Ahmad of Wimbledon (Con): My Lords, I assure my noble friend that we are working not just with the United States but, as I said in response to a previous question, with our EU allies on this issue. We need to bring direct pressure on the Belarus Administration, which we have done at the highest level through sanctions. However, we also continue to implore Russia to ensure that the elections which were held previously can be held again, and in a fair and transparent way.

The Earl of Sandwich (CB) [V]: My Lords, how does the Minister know that the OSCE and the United Nations are actively investigating both the election process and these human rights violations, including the brutal treatment of hundreds of detainees still going on? Can he also confirm reports of the building of an internment camp for political prisoners?

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Earl's second point, we have been following media reports and our ambassador is following the situation closely. However, I assure him that there have been periphery meetings at the UN, and directly at the Human Rights Council in September, and we are now awaiting a report from the human rights commissioner on the situation on the ground, to be published in March.

Lord Anderson of Swansea (Lab): My Lords, Belarus is the only European country to be excluded from the Council of Europe, largely because of its appalling human rights record, yet Belarus, unlike Russia, has not invaded two other neighbouring countries and has not poisoned people on British soil. Of course, the Council of Europe's condemnation of Navalny's imprisonment will be defied by Russia. Is there not a contradiction here? Are the Government in favour of Russia's continued membership of the Council of Europe?

Lord Ahmad of Wimbledon (Con): My Lords, Russia clearly has supported the regime in Belarus, including, I believe, through direct funding of $1.5 billion. We call on Russia to ensure that it allows transparency and elections to take place. Russia is an important country on the world scene and its continued engagement through multilateral fora is important—even where we disagree bilaterally, as we do on a number of issues.

Lord Campbell of Pittenweem (LD): My Lords, what does a country have to do before membership of the OSCE is withdrawn?

Lord Ahmad of Wimbledon (Con): My Lords, that is primarily a matter for the OSCE. However, the point the noble Lord, Lord Anderson, made with respect to Russia has to be considered by all members of the OSCE to ensure that each member state is adhering to the principles of whatever organisation they belong to.

Lord Loomba (CB) [V]: My Lords, it is very clear that democracy in Belarus is in name only. President Lukashenko is no less than a dictator who has ruled Belarus for over a quarter of a century, ignoring the opposition political party and protesters and inflicting human rights atrocities. Can the Minister tell us what steps the Government are taking to ensure that Belarus remains an independent republic and does not become part of Russia, which is its largest political and economic partner under the influence of Putin?

Lord Ahmad of Wimbledon (Con): My Lords, we will continue to work with key partners and, as I said, through multilateral fora to ensure that there is a free, transparent election in Belarus which ensures the freedoms and rights of all its citizens.

Baroness Rawlings (Con) [V]: My Lords, it seems that Mrs Tikhanovskaya spoke to the Foreign Secretary this month. Can the Minister say what our future relationship will be with Belarus, which was formerly White Russia and known for the purity of its people?

Lord Ahmad of Wimbledon (Con): My Lords, my noble friend is right. As I indicated in response to an earlier question, my right honourable friend the Foreign Secretary has spoken to the leader of the opposition. As I have said on a number of occasions, we want to ensure that the rights of all communities and all citizens in Belarus are guaranteed, and the best way to do that is through free and transparent elections. We have taken measures such as sanctions, including imposing sanctions on Alyaksandr Lukashenko, his son, and six other members of the Belarusian senior Administration, and we will continue to read the situation on the ground and work with international partners in pursuit of this aim.

The Deputy Speaker (Lord Alderdice) (LD): My Lords, all the supplementary questions have been asked, and we now come to the fourth Oral Question.

North of England: Investment

Question

12.40 pm

Asked by ***The Lord Bishop of Newcastle***

To ask Her Majesty's Government what assessment they have made of the report by the Centre for Policy Studies *A Northern Big Bang: Unleashing Investment in the North*, published on 14 February.

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): The Government welcome the contribution made by the Centre for Policy Studies report. Levelling up the north of England is a key priority for this Government, and the coronavirus crisis has made it more important than ever that the Government continue to drive forward progress on our promise to deliver real, positive change in the north.

The Lord Bishop of Newcastle [V]: I draw attention to my interest as the chair of the North of Tyne Combined Authority inclusive economy board, as set out in the register. It is rather shaming that the UK is the most geographically unequal of the OECD group of 27 rich countries. The Treasury's historical approach to investment has widened rather than closed the north/south divide. I want to press the Minister on whether he agrees with the central thrusts of the report: first, that levelling up will rely on the power, dynamism and scale of investment which only the private sector can bring; and, secondly, that the economic success of the north is too important to the people who live there to be left in the hands of those who do not. Do the Government accept that business as usual simply will not cut the mustard?

Lord Greenhalgh (Con): My Lords, we recognise the need to unlock private investment, and the government investment is designed to do precisely that, with the £4 billion levelling-up fund; but, equally, we need to devolve decision-making closer to the people in the north of England.

Baroness Altmann (Con): My Lords, I congratulate the Government on their £4 billion programme and support the aims of building back better, a green industrial revolution and attracting global capital. Will my noble friend comment on the possibility of using domestic pension assets, of which there are hundreds of billions of pounds, including in local authority funds, which are currently investing only in gilts with extremely low returns and which could be put to more productive use in such building programmes?

Lord Greenhalgh (Con): My Lords, my noble friend is right that pension assets are an important source of finance for investment in infrastructure. I note that the CPS report proposes updating rules covering UK pension schemes so that we can encourage investment in northern infrastructure.

Lord Ravensdale (CB) [V]: My Lords, although the paper is entitled *A Northern Big Bang*, many of the problems described and the possible solutions identified are as relevant to the Midlands as they are to the north—a point the authors stress throughout the report. Does the Minister agree that measures to level up our country are just as, if not more, urgently needed in the Midlands as they are in the north, and will he comment on what plans the Government have to work with the Midlands Engine, the APPG of which I am co-chair, in that regard?

Lord Greenhalgh (Con): My Lords, I point out that the commitment to levelling up also includes the Midlands. Earlier this month, my right honourable friend the Housing Secretary met the Midlands Engine Business Council and numerous business leaders to work on precisely how we should drive forward the agenda to ensure growth in the Midlands as well as in the north.

Lord Sikka (Lab) [V]: My Lords, history shows that major industries, such as gas, water, electricity, engineering, petrochemicals, airlines, biotechnology, telecommunications, computers and medicines, were built or rejuvenated by the state because the private sector showed little appetite for the risks and investment. Does the Minister agree that direct state investment is vital to secure prosperity for the north? If not, why not?

Lord Greenhalgh (Con): My Lords, we recognise the importance of direct government investment, but we must also ensure that the £4 billion of the levelling-up fund leverages in private sector investment. It is those two working in harness that provides the solution.

Lord Beith (LD): Attracting private investment to the north requires a functioning transport system. Why are Ministers declining to listen to the Northern Powerhouse Rail business case for substantial investment

across the north before they produce their own integrated transport plan? What hope is there of the level of improvement to the transport system—for example, the east coast main line, which requires expanded capacity both south and north of Newcastle essential to expanding the passenger and freight capacity of that line?

Lord Greenhalgh (Con): My Lords, I recognise the importance of transport in driving progress and investment in the north of England. That is why there has been £13 billion of investment—the largest of any Government in history—between 2015-16 and 2020-21, and there is now also a five-year intra-city transport settlement to ensure the north gets the transport infrastructure it needs.

Lord Berkeley (Lab) [V]: Following on from the question of the noble Lord, Lord Beith, on transport, can the Minister explain some of the figures in his response and why the Government have delayed investment in the trans-Pennine railway line while at the same time spending £760 million on the east-west rail link between Oxford and Bedford, which is certainly not even in the Midlands nor the north? How is this levelling-up the economy?

Lord Greenhalgh (Con): I am not exactly in the right department when it comes to individual transport projects, but there is a huge commitment to increasing investment in transport infrastructure. The organisation Transport for the North has received funding to develop the strategy so that we can get the right investment into the north.

Lord Holmes of Richmond (Con): My Lords, I declare my interests as set out in the register. The big bang of the 1980s was driven by the right regulatory framework and the technologies of the time. Fast forward 35 years and we have a leading position in many of the technologies of our time—AI, distributed ledger technology, cyber and fintech. Does my noble friend agree that if we deploy those technologies, not least in proposed fintech clusters in the north and other regions, it will have a profoundly positive impact on jobs and skills and—if combined with the right regulatory framework rooted in consistency, clarity, competitiveness and innovation—it will truly transform our nation?

Lord Greenhalgh (Con): My noble friend is right that we need to look at the emerging economy and encouraging fintech clusters so that we get more high-skilled jobs located in the north. That is why the Chancellor's decision to locate the national infrastructure bank in the north is also helpful in this regard.

Lord Curry of Kirkharle (CB) [V]: My Lords, my interests are as recorded in the register. In the north, we have a double challenge. We need not only north/south levelling-up but rural/urban levelling-up. Can the Minister confirm how soon the Government will announce details of the shared prosperity fund and whether there will be a dedicated rural element to it?

Lord Greenhalgh (Con): I am not in a position to announce further details on the UK shared prosperity fund.

Lord Wrigglesworth (LD) [V]: My Lords, there is a glaring omission in this report. Its proposals for business and the built environment have been applied in one form or another since the Jarrow march in the 1930s, and I wish them well. However, levelling up is not a problem of business and the built environment but a people problem. What are the Government going to do to improve education and training opportunities, and invest in people through projects such as Sure Start, to help minority communities and the white working class in the regions break out, so they can make fulfilling lives for themselves and a greater contribution to their regional economies?

Lord Greenhalgh (Con): My Lords, the noble Lord is right that we need to see not only economic development and growth in the economy but social regeneration and the upskilling of people in the north. That is why one part of the agenda is the devolution of decision-making, including adult education and skills budgets, to the mayors responsible for driving that agenda, as well as the economic agenda.

Lord Blunkett (Lab) [V]: I draw noble Lords' attention to my registered interests. On 19 February, the Government made a welcome, if modest, announcement on the establishment of the Advanced Research and Invention Agency. Do the Government acknowledge, as they surely must, that unless the agency is able to deploy money directly to the north of England, as opposed to the golden triangle of Imperial, Oxford and Cambridge, we will not have the inventions or attract the inward investment that the report so graphically laid out?

Lord Greenhalgh (Con): My Lords, there should be no barrier to investing in the research and innovation that the noble Lord outlines. I am sure that the Government will take his point on board.

The Deputy Speaker (Lord Alderdice) (LD): My Lords, I regret that we were not able to make it to all Members on the list but the time allowed for this Question has elapsed.

12.51 pm

Sitting suspended.

Trade Bill

Commons Reasons and Amendments

Relevant document: 15th Report from the Constitution Committee

1.30 pm

The Deputy Speaker (Lord Alderdice) (LD): My Lords, the Hybrid Sitting of the House will now resume. I ask Members to respect social distancing. I will call Members to speak in the order listed. As there are counterpropositions to each of today's Motions, any Member in the Chamber may speak on each group, subject to the usual seating arrangements and the capacity of the Chamber. Any Member intending to do so should email the clerk or indicate when asked.

[Lord Alderdice]
Those Members not intending to speak on a group should make room for those who do. All speakers will be called by the Chair.

Short questions of elucidation after the Minister's response are discouraged. A Member wishing to ask such a question must email the clerk. The groupings are binding. A participant who might wish to press an amendment other than the lead amendment to a Division must give notice in the debate or by emailing the clerk. Leave should be given to withdraw Motions. When putting the Question, I will collect voices in the Chamber only. If a Member taking part remotely wishes their voice to be accounted for if the Question is put, they must make this clear when speaking on the group. Those noble Lords who are following the proceedings but not speaking may submit their voice, as Content or Not-Content, to the collection of their voices by emailing the clerk during the debate. Members cannot vote by email; the vote will be taken by the remote voting system.

Motion A

Moved by ***Lord Grimstone of Boscobel***

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

1C: *Because Parliamentary scrutiny of trade agreements is ensured by existing measures and UK standards cannot be changed without further implementing legislation (itself subject to Parliamentary scrutiny).*

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, with the leave of the House, I will speak also to Motion A1. I will start by addressing Amendment 1D on the Order Paper, in the name of my noble friend Lord Lansley, concerning the parliamentary scrutiny of trade agreements. This is a revised agreement of the previous two that the Commons have decisively rejected. As I have made clear in my previous remarks on this important issue, Parliament plays a vital role in scrutinising our trade agenda. This is a role that we welcome and appreciate. As the United Kingdom embarks on its independent trade policy, it is right that Parliament should be able to hold the Government to account effectively.

The Government have taken steps to ensure that we have robust transparency and scrutiny arrangements in place that reflect our constitution. Noble Lords will be familiar with these by now, I trust, so I will touch on them only briefly. On the new free trade agreements that we are currently negotiating, the Government have provided extensive information to Parliament, including publishing our negotiating objectives, the economic scoping assessments and the Government's response to the public consultation prior to the start of talks. Throughout the negotiations the Government continue to keep parliamentarians informed of progress, including by holding regular briefings. The Government are also engaging extensively with the relevant Select Committees throughout.

We have also agreed to share the text of each deal with the relevant committees in advance of their being laid before Parliament under the CRaG procedure; they then have the option to produce independent reports on each agreement. Furthermore, if Parliament is not content with a free trade agreement that has been negotiated, the CRaG procedure provides an additional layer of scrutiny. Through this, the other place can prevent ratification indefinitely.

I am well aware of the strength of feeling and the proper interest that the House is taking in these matters, and I have had a number of very useful conversations with noble Lords. I know in particular that my noble friend Lord Lansley would be grateful for some further reassurances beyond what I have said already, and I am happy to state the following.

First, where we publish negotiating objectives for future free trade agreement negotiations, I am sure that this House will rightly and properly take an interest in their contents. If the International Agreements Committee should publish a report on those objectives, I can confirm that the Government will gladly consider that report with interest and, should it be requested, facilitate a debate on the objectives, subject to the parliamentary time available. That is an important concession.

Secondly, on FTAs as part of CRaG, the Government have stated clearly that we will work to facilitate requests, including those from the relevant Select Committees, for debate on the agreements, subject to available parliamentary time. Indeed, the Government have a good record on this. Debates took place last year on the Japan FTA, alongside six other debates on continuity agreements. But to provide reassurance to noble Lords, I would like to state from the Dispatch Box that I cannot envisage a new FTA proceeding to ratification without a debate first having taken place on it, should one have been requested in a timely fashion by the committee. The Government are negotiating world-class agreements and we will proudly promote the benefits of our trade agenda; of course, debates are a good way of doing that.

With all due respect, I feel the need to stress that the elected House has now rejected amendments on parliamentary scrutiny in this Bill and its predecessor a total of five times, most recently by a margin of 75. This House has repeatedly offered tweaked and tinkered amendments on the subject, but regardless of their guise, I have to say that the other place has resoundingly and repeatedly rejected them. I say that with no disrespect whatever, but as a reminder that this House has fulfilled its constitutional obligations and we should be grateful for that. I thank colleagues from across the House for their diligence, but I believe that the time has now come to try to put this issue to bed. I beg to move.

Motion A1 (as an amendment to Motion A)

Moved by ***Lord Lansley***

At end insert ", and do propose Amendment 1D in lieu—

1D: After Clause 2, insert the following new Clause—

"Parliamentary approval of international trade agreements and treaties

(1) If a decision has been made by the Secretary of State to commence negotiations towards a free trade agreement, a statement must be made to both Houses of Parliament.

(2) Negotiations for that trade agreement may not proceed until the Secretary of State has laid draft negotiating objectives in respect of that agreement before Parliament, and a motion endorsing the draft negotiating objectives has been approved by a resolution of the House of Commons.

(3) The Constitutional Reform and Governance Act 2010 is amended as follows.

(4) In section 21 (extension of 21-day sitting day period), after subsection (2) insert—

"(2A) Where a relevant Committee of either House of Parliament has recommended that a treaty constituting an international trade agreement as defined by the Trade Act 2021 should be debated in that House, the Minister of the Crown must ensure that the period does not expire before that debate has taken place."""

Lord Lansley (Con): My Motion A1 would insert Amendment 1D in lieu—it is on page 4 of the Marshalled List—which would do two things. It would require a debate on draft negotiating objectives in relation to future international trade negotiations where such a debate has been requested, and that Ministers would not be able to proceed with negotiations until such a debate had taken place. It would also require that where a relevant committee of either House seeks a debate under CRaG within the 21-day period, that period should be extended until the debate has taken place.

Noble Lords will recall that on two previous occasions this House sent amendments requiring additional parliamentary scrutiny to the other place. On each occasion, they were supported on a cross-party basis. I am very grateful for the support that I have received from all sides of this House for this purpose. In the other place, 11 Conservatives supported the amendment on the first occasion, while 13 supported it on the second occasion, and although they did not vote for it, both Liam Fox, the former Secretary of State for International Trade, and Jeremy Wright, the former Attorney-General, expressed support in particular for the proposition that there should be a debate on the negotiating objectives at the commencement of plans for an international trade agreement.

In preparing the amendment in lieu, we intended to narrow down simply to those two points, leaving out—not because they are not important but because we believe that the Government have already given assurances on this—first, that the Government would publish in their Explanatory Memoranda under CRaG details of the legislative implementation of any agreement and, secondly, that in the negotiating objectives they would consult with the devolved Administrations. Given those two issues, let me say how much I appreciate the support that I have received in this House and the constructive and helpful conversations that I have had with the Minister and the Bill team. I appreciate the positive way in which they responded.

Noble Lords will have heard the Minister say two things that are, from my point of view, of great importance: first, that where the International Agreements Committee, of which I have the privilege to be a member, makes a report on the Government's draft negotiating objective for an agreement, the Government will facilitate such a debate; and secondly, that where a debate has been requested under CRaG within the 21-day period, Ministers will not ratify such an agreement until such time as the debate has taken place. In both respects—speaking as a former leader of the House of Commons, I should say that the Minister has, quite properly, reserved the position of the business managers—these things would happen only when parliamentary time allowed.

These assurances go a long way to meeting what we have been asking for. They are not technically everything that we are asking for. There remains a significant loophole: if a debate under CRaG takes place after the 21-day period has expired and Ministers have not sought an extension to that period, which they can do, then, strictly speaking, even if the other place passed a Motion that ratification should be delayed, there would be nothing legally to stop Ministers proceeding to ratification or, indeed, ratifying it before the debate took place.

Given what the Minister has said, I think we have moved to a happy position where, if I can put it in the context of this House, we have moved from what has been up to now, particularly where CRaG is concerned, conventional—that is that Ministers should not ratify until a debate has taken place and should legislate for implementation before ratification—to what I might think of as a rule. It is not in statute but, in the same way that the Ponsonby rule existed for quite a long time before the CRaG legislation was passed, we have now acquired—if he will forgive me—the Grimstone rule for debate on negotiating objectives and for ratification not to take place before a debate has taken place under CRaG where requested. So I am most grateful to my noble friend. I am especially grateful to the noble Lord, Lord Stevenson of Balmacara, and to the noble Lord, Lord Purvis of Tweed, particularly because a debate on the negotiating objectives was in his original Amendment 1, which was sent to the other place with the Bill when it left this House in the first place. I hope that he and other noble Lords will join me in expressing satisfaction at the outcome that has been achieved.

The Deputy Speaker (Lord Alderdice) (LD): The noble Baroness, Lady Jones of Moulsecoomb, has indicated that she wishes to speak in the gap prior to the rest of the listed speakers.

1.45 pm

Baroness Jones of Moulsecoomb (GP): I had not realised that there would be so few speakers in this debate; I would have written a much longer speech.

I try not to be rude when I speak in your Lordships' House but sometimes it is incredibly difficult. I find it incredibly difficult to understand how the Minister kept a straight face while reading out those first couple of paragraphs about how the other place has rejected all our amendments and so on. It has not. The Government have let power go to their head. They have an 80-plus majority and think that they can just boot out everything that they do not like. I am afraid that that is just not true. We have spent four years working on this Trade Bill. For four years, we have been negotiating with Ministers and trying to make the Bill better, and it has been scrapped each time. Now it has come back and I am afraid that we are digging in our little pink trotters on some aspects. Telling us that it has been rejected endlessly by the other place does not wash.

I will go back to my speech now. Quite honestly, it is our responsibility to reject legislation that is inadequate or unlawful. That is our job. The Government expect us just to back down all the time because of the

[Baroness Jones of Moulsecoomb]
electoral majority but that will not happen. To think that you can bring a Trade Bill here with a sort of take-it-or-leave-it deal is neither believable nor credible. We should pass this amendment. I congratulate the noble Lord, Lord Lansley, on moving it and believe that the Government should not oppose it in the Commons.

The Deputy Speaker (Lord Alderdice) (LD): Does anyone else in the Chamber wish to speak? No? We will move on to the listed speakers. I call the noble Lord, Lord Purvis of Tweed.

Lord Purvis of Tweed (LD): My Lords, I, too, thank the noble Lord, Lord Lansley, for moving this amendment and allowing us to debate this issue. I will turn to that in a moment.

When the noble Baroness was speaking, I reflected on the constitution arrangements that we have. I think that she and I both favour change in our constitution to change the mechanism of appointment to this place and make it a fully democratic House. Nevertheless, in his remarks the Minister referred to having trade scrutiny and decision-making that is appropriate to our constitutional arrangements. Our constitutional arrangements say that this is a revising Chamber, and we are doing our duty in asking the Government to think again. When the House has voted by large majorities on every occasion that it has debated scrutiny amendments in either my name or that of the noble Lord, Lord Lansley, it has made its view plain. It is therefore incumbent on the Government to reflect on that, not simply to exercise the Whip.

One of the votes that the Minister referred to tested this point slightly. Last time round, the other place was not asked to have a separate vote on these amendments because, in the way that they scheduled all this, the Government bundled them all into one. Members of the Commons with a particular view on scrutiny, human rights, genocide or anything else were asked to support or oppose the Whip in one particular vote. I do not think that that reflects very well on the way in which the Government have approached the Trade Bill and these stages.

However, as people more famous than me have said, we are where we are. I thank the noble Lord, Lord Lansley, for his work on getting us to this position. I have enjoyed working with him, the noble Lord, Lord Stevenson, and others. It has genuinely been cross-party work. I also share the thanks expressed by the noble Lord, Lord Lansley, to Jonathan Djanogly and others in the House of Commons for their work. In many respects, they have been courageous. Consistently voting or making a case against one's own Government is a courageous thing in politics, but they are doing it out of a great sense of sincerity that going forward trade agreements for the UK are now deep and comprehensive by definition and touch on very wide aspects across public policy and regulation and therefore for parliamentary scrutiny to be effective, it should inform debate, and if accountability is to be operable, that debate should lead to votes. Ultimately, that is the approach about which we have sought to persuade the Government.

There have been indications of the Government being more flexible in certain areas. This is an interesting Bill which, as the noble Baroness said, has taken so long. A White Paper about trade policy appeared and disappeared mid-Bill; there has been no successor to it. The words of the Minister today are helpful and we now have the Grimstone rule, which is that ratification of a new trade agreement will not take place without a debate. That is important. It is not as much as I wanted or as much as the Government were going to give us at the start of this process, many years ago, but this is the third Minister who has handled this Bill and it is third time lucky, as far as the commitment that we will at least be able to vote on the agreements coming up.

There had been a rule for treaty ratification called the Ponsonby rule. It was replaced by statutory provision, because we were not satisfied that simply a ministerial rule, commitment or convention would be appropriate. While we may be putting this issue to bed in this Bill, at this moment, the issue has not been put to bed. Other Bills in the future will do as we did with the Ponsonby rule, which was to put it on a statutory footing. We will have to live with the Grimstone rule for the moment. It is perhaps, shall we say, a tweaking of the Government's position. Nevertheless we accept it for the moment, as the House was clear, in all its votes, that more scrutiny, accountability and debating are required. I assure the Minister that we will come back to this at other times.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I thank the Minister for his comments and the noble Lord, Lord Lansley, for moving his Motion 1D on a cross-party basis. I put on record, as he did, how enjoyable it was to work with him, the noble Lord, Lord Purvis, and Commons colleagues of all persuasions to see whether we could progress this important issue. Although I have some sympathy with the comments made by the noble Baroness, Lady Jones of Moulsecoomb, I agree with the Minister and others who have spoken that the speeches we have heard draw discussions on the parliamentary scrutiny of international trade deals to a close, for the moment. This issue will not go away, although I believe that the Grimstone rule—if that is what we are to call it—will help us to work through a process to consider trade agreements in the future. That is for the good.

I will make three small points. First, it is difficult to make constitutional change. Anybody who has operated in either House of Parliament knows that to be the case. It should be hard—and it is right that it is—but it is sometimes frustrating if the pace of change does not match some of the aspirations and recognise some of the wrongs committed. As the noble Lord, Lord Lansley, said, although we have not managed to set in statute that which a significant majority in this House, across all parties, would have liked, we have agreed a way of working with the Government for the future—the Grimstone rule—that strikes a workable balance between the rights and responsibilities of the Executive and those of Parliament. Time will tell. We are in the right place and no doubt will benefit from the experience to be gained in the next few years, but we should record that progress has been made.

Secondly, one key turning point to have emerged from the discussions is the need to ensure that we have a process, in any future agreement that we might make, which properly engages the devolved Administrations

and civil society—and on a sensible timescale. I will come back to that. This Parliament will now need, in the way that it works, to address four major points in any future statutory system, although they will be covered by the Grimstone rule: approval of the initial objectives, review of the progress of negotiations, considerations of the final proposed agreement including changes to existing statutory provisions, and parliamentary approval of the deal and any subsequent changes to legislation that may be required. We have analysed that to the nth degree in our discussions during the last four years; now we have a model for how it can work. If there is good will on both sides, as I think there is, we should let that run for a while before returning to it.

My third point, on which I will end, is that in these debates over the last four years we have made it clear that UK trade policy and the trade deals that will be the basis of our future activity and prosperity are important. They deserve the sort of focus and interest envisaged under the protocols described as the Grimstone rule. We can be confident that, with the work of the Select Committees in the Commons and the International Agreements Committee in the Lords complementing the interests of a range of other bodies, including devolved Administrations and civil society, that debate will continue to be an important aspect of our public policy.

Finally, although we have gone as far as we can on this today, we will keep a close eye on it and look forward to resolving outstanding issues in the not-too-distant future. We have worked closely with the Government and with successive Ministers. I thank the noble Baroness, Lady Fairhead, and the noble Lord, Lord Grimstone, for their engagement since 2017. We have built a coalition of interest across parties in this and in the other House, which has been rewarding, positive and a model for how issues of this nature can be resolved in the public interest.

Lord Grimstone of Boscobel (Con): My Lords, I first unreservedly apologise if noble Lords thought that I was, in any way, disparaging the role of this House and the valuable work that it has done on scrutiny, by referring to the votes in the other place. Nothing could have been further from my thoughts, and I hope that noble Lords will accept that.

This has been a good debate and reflects the calibre of discussions that we have repeatedly had on the important issue of scrutiny. The Government have listened to the concerns expressed on this issue and we have moved significantly to set out enhanced transparency and scrutiny arrangements for free trade agreements. This has come almost entirely because of the quality of the debates and the points that have been put by Members of our House.

What have we done? It includes committing to allow time for the relevant Select Committees to report on a concluded FTA before the start of the CRaG process; strengthening the commitments, as I said earlier, which were set out before this debate in a Written Ministerial Statement; and placing the Trade and Agriculture Commission on a statutory footing and ensuring that it is required to transparently provide independent advice to the Government on whether new FTAs maintain statutory protections in key areas, such as animal welfare and the environment. In addition, the Government have moved on other linked areas such as standards, which we will come to later.

While this is the last time, I hope, that we debate this issue in this Bill, scrutiny is an issue that we will return to when we debate the implementing legislation for future FTAs. The EU model of trade agreement scrutiny evolved over our 50-year membership. I assure noble Lords that we have no intention of taking that long but now, in only month two after the transition period, I urge your Lordships' House to see the current arrangements as an evolution of our trade treaty scrutiny practices—no doubt an evolution that has further to go. As we find our feet as an independent trading nation, working with parliamentarians in both Houses, I am sure that we will continue to build upon our scrutiny processes, in ensuring that they remain fit for purpose.

As a concluding comment, I would be covered in embarrassment to think that my small contribution to this debate has led to a rule being named after me.

Lord Lansley (Con): I am grateful to my noble friend the Minister and to other colleagues who have spoken in this short debate. As the noble Lord, Lord Stevenson of Balmacara, said, good will has characterised these debates, and it can be sustained—even in the case of the noble Baroness, Lady Jones of Moulsecoomb. It was never with ill will; it was controversial sometimes, but always well meant.

From my point of view, with good will, and the application of the Grimstone rule—he cannot get away from it now—I welcome the specific additions today that the Government will facilitate a debate where requested on draft negotiating objectives, subject to parliamentary time, and that the Government cannot envisage the circumstances in which they would ratify an international trade agreement when a debate requested by the relevant committee in either House had not yet taken place.

2 pm

These are important additions to what I think we all agree are substantive and helpful arrangements that we have already seen in practice with the Japan agreement. But, as we move from what are essentially continuity agreements to new trade deals, it was important for us to establish that in this legislation, and I hope that we have done so. With good will, that will serve us well. If it does not, as the noble Lords, Lord Purvis of Tweed and Lord Stevenson of Balmacara, quite rightly pointed out, there will be further legislation related to the free trade agreements to be implemented and we will return to that if these rules are not adhered to —but I hope that they will be. On that basis, I beg leave to withdraw Motion A1 in my name.

Motion A1 (as an amendment to Motion A) withdrawn.

Motion A agreed.

Motion B

Moved by ***Lord Grimstone of Boscobel***

That this House do not insist on its Amendments 2B and 3B, to which the Commons have disagreed, and do agree with the Commons in their Amendments 3C and 3D in lieu.

3C: Insert the following new Clause—

"2A Free trade agreements and genocide

(1) Subsection (2) applies if the responsible committee of the House of Commons publishes a report which—

(a) states that there exist credible reports of genocide in the territory of a prospective FTA counter-party, and

(b) confirms that, in preparing the report, the committee has taken such evidence as it considers appropriate.

(2) If, after receiving a response from the Secretary of State, the committee publishes a report which—

(a) includes a statement to the effect that the committee is not satisfied by the Secretary of State's response, and

(b) sets out the wording of a motion to be moved in the House of Commons in accordance with subsection (3),

subsection (3) applies.

(3) A Minister of the Crown must make arrangements for the motion mentioned in subsection (2)(b) to be debated and voted on by the House of Commons.

(4) Subsection (5) applies if the responsible committee of the House of Lords publishes a report which—

(a) states there exist credible reports of genocide in the territory of a prospective FTA counter-party, and

(b) confirms that, in preparing the report, the committee has taken such evidence as it considers appropriate.

(5) If, after receiving a response from the Secretary of State, the committee publishes a statement to the effect that—

(a) it is not satisfied by the Secretary of State's response, and

(b) it seeks a debate on the report, subsection (6) applies.

(6) A Minister of the Crown must make arrangements for a motion for the House of Lords to take note of the report and the Secretary of State's response to be moved in that House by a Minister of the Crown.

(7) References in this section to genocide are references to genocide occurring, or continuing, after this section comes into force.

(8) In this section—

"genocide" has the same meaning as in the Convention on the Prevention and Punishment of the Crime of Genocide (see Article 2 of the Convention);

"prospective FTA counter-party" means a state with which the United Kingdom is engaged in formal negotiations for a bilateral free trade agreement;

"the responsible committee of the House of Commons" means the select committee of the House of Commons charged with responsibility for this section;

"the responsible committee of the House of Lords" means the select committee of the House of Lords charged with responsibility for this section."

3D: Title, Line 1, leave out "the implementation of"

Lord Grimstone of Boscobel (Con): My Lords, in moving Motion B I shall with the leave of the House speak also to Motions B1 and B2.

I turn to Commons Amendments 3C and 3D on the Order Paper, concerning genocide and free trade agreements. This amendment was passed in lieu of amendments tabled by the noble Lords, Lord Collins and Lord Alton. Perhaps I may begin by clarifying some points of parliamentary procedure concerning these amendments. As noble Lords will be aware, the amendments in the other place were considered on 9 February as part of a so-called package with which the Government disagreed, supporting instead an amendment in lieu tabled by the chair of the Justice Select Committee.

The Lords amendments with which the Government disagreed concerned the most serious of human rights violations—namely, crimes against humanity and genocide. Both amendments sought to involve Parliament, in different ways, in considering the implications of such violations for trade policy, and both sought to impose a duty on the Government to act in specified ways. Accordingly, the Government supported an amendment in lieu which would have the effect of affording Parliament substantive opportunities for scrutiny, in precisely the manner envisaged by your Lordships' amendments. That is the amendment before the House today, which the Government fully support.

The packaging of amendments is a common, long-standing parliamentary procedure which has come about to assist with the complexities of ping-pong. The practice of grouping together as a package a number of related amendments has developed in later stages of the exchanges between the Houses for the purposes of decision-making as well as debate. As any keen reader of *Erskine May* will attest, ping-pong is one of our most complex legislative stages. This approach allowed the Government to support the reasonable middle-ground concession now before your Lordships on the Order Paper, which ensures a clear role for Parliament where concerns about genocide are relevant to the UK's negotiation of bilateral free trade agreements, without breaching the Government's red line on the courts.

I will now say something about the role of the courts, as there has been some degree of misapprehension on this point in recent debate. Noble Lords have observed, quite rightly, that it is the Government's long-standing position that the determination of genocide is a matter for a competent court. The question has now been posed on numerous occasions as to why the Government did not support the amendment previously tabled by the noble Lord, Lord Alton. It should be recalled that this amendment sought to expand the jurisdiction of the High Court—a civil court—to allow it to make preliminary determinations of genocide.

It is important to distinguish here between the crime of genocide as committed by an individual and violations of international obligations related to genocide that may be committed by a state. States can, for example, be responsible for genocide committed by an individual where that individual's acts are attributable to the state. The UK has international obligations under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and the Rome Statute of the International Criminal Court, to criminalise genocide committed by individuals. Of course, we have done this in the International Criminal Court Act 2001.

In the UK, criminal courts are competent to try the crime of genocide where it is committed by an individual. Under the 2001 Act, domestic criminal courts in the UK are competent to find individuals guilty of genocide where the case is proved to the criminal standard of "beyond reasonable doubt". UK courts can determine whether a genocide has taken place when an individual is charged with the crime, wherever the alleged genocide took place. Both UK nationals and residents can be prosecuted, including those who became resident in the UK after the alleged offence took place.

International courts such as the International Court of Justice are also competent to determine whether states have violated their international obligations in respect of genocide. However—this is the important

point—the previous amendments from the noble Lord, Lord Alton, sought to give to a domestic civil court jurisdiction that it does not currently have to make preliminary determinations about the actions of foreign states. I will turn to the noble Lord's Amendment 3E on the Order Paper before us today in just a moment, but first I will conclude these remarks on the Government's position on the determination of genocide.

Let me be very clear on this point: the Government will not agree to expanding the jurisdiction of our courts to consider cases of state genocide. The Government's position does not rest on any consideration of whether our courts have the capacity to determine such difficult cases; it is based on strong and very real concerns that expanding the jurisdiction of our courts in this way would bring about a change in our constitutional structures by the back door.

In today's Amendment 3E in lieu, in the name of the noble Lord, Lord Alton, and similarly in Amendment 3F in lieu, in the name of my noble friend Lord Cormack, we are faced with a different approach. This approach seeks to give the power to make preliminary determinations on genocide to an ad hoc parliamentary committee, comprising five Members from either House, where those Members have all held high judicial office. It should be clear, for the reasons I have just outlined, that such an approach is also problematic, given that it conflicts with the Government's settled policy on genocide determination that it is for competent courts to make determinations of genocide, not parliamentary committees —even, and I say this with the greatest respect, when they are composed of eminent and learned former judges.

The establishment of an ad hoc parliamentary judicial committee would represent a fundamental constitutional reform. It would blur the distinction between courts and Parliament and upset the constitutional separation of powers. Of course, establishing any new committee would also have implications in terms of parliamentary time and resources, and such a drawn-out process could continue for months or even years. While it is of course up to Parliament to decide how to organise its own affairs, establishing such a committee in legislation would amount to a constitutional reform that I have to say that the Government cannot accept.

Ultimately, the question of how we respond to concerns of genocide as it relates to our trade policy is a political question. Indeed, these Lords amendments envisage as their end point a political process to involve Parliament in holding a Government to account, and they would impose a legal duty on a Minister of the Crown to table a Motion for debate in Parliament once the ad hoc committee and the relevant Select Committee had reported. This requirement for a debate is at the heart of the amendment passed by the other place on 9 February. The Government support that amendment and call on noble Lords to do likewise.

The amendment delivers on your Lordships' desire for parliamentary scrutiny by ensuring that the Government must put their position on record, in writing, in response to a Select Committee publication raising credible reports of genocide in a country with which we are proposing a new bilateral free trade agreement. The amendment delivers on your Lordships' wish to impose a duty on the Government to guarantee time for parliamentary debate, in both Houses, should concerns about genocide arise. This is an important point: the amendment also affords to the Commons Select Committee the authority and responsibility to draft the Motion for debate, thereby taking this out of the Government's hands. This is a significant concession, which ensures that Parliament is in the driving seat.

I want to clear up one last misconception before I conclude. It has been claimed, since the Government supported this amendment, that we are now switching our position away from determination of genocide by competent courts and asking Parliament to make these determinations. Nothing could be further from the Government's view. I repeat: determinations of genocide are for competent courts, including domestic criminal courts and relevant international courts. We are not asking Parliament to make a determination on whether genocide has occurred. That is a very high standard and perhaps impossible for a committee to do. We are instead supporting a process that guarantees scrutiny and debate where Parliament has established for itself that "credible reports" of genocide exist and this is reflected in its own published reports. This is not the same as a judicial finding, nor is it intended to be. I am afraid we do not support the new amendments in lieu on the Marshalled List that seek to give a quasi-judicial role to an ad hoc committee, because these amendments conflict with settled government policy. We support the concessionary amendment passed in the other place precisely because the Government are committed to preserving their policy on the jurisdiction of the courts. I beg to move.

Motion B1 (as an amendment to Motion B)

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

Leave out from "disagreed," to end and insert "do disagree with the Commons in their Amendments 3C and 3D in lieu, and do propose Amendment 3E in lieu—

3E: After Clause 2, insert the following new Clause—

"Trade agreements and genocide

(1) Subsection (2) applies if the responsible committee of the House of Commons publishes a report which—

(a) states that there exist credible reports of genocide perpetrated by a counter-party to a relevant agreement, and

(b) confirms that, in preparing the report, the committee has taken such evidence as it considers appropriate.

(2) The matter is referred to the Parliamentary Judicial Committee ("PJC") for a preliminary determination on genocide perpetrated by a counter-party to a relevant agreement.

(3) Following a preliminary determination from the PJC under subsection (2) the Secretary of State must prepare a response to the responsible committee of the House of Commons.

(4) Subsection (5) applies if, after receiving a response from the Secretary of State to the preliminary determination mentioned in subsection (2), the responsible committee of the House of Commons publishes a report which—

(a) includes a statement to the effect that the committee is not satisfied by the Secretary of State's response, and

(b) sets out the wording of a motion to be moved in the House of Commons in accordance with subsection (5).

(5) A Minister of the Crown must make arrangements for the motion mentioned in subsection (4)(b), within a reasonable period, to be debated and voted on by the House of Commons.

(6) Subsection (7) applies if the responsible committee of the House of Lords publishes a report which—

(a) states that there exist credible reports of genocide perpetrated by a counter-party to a relevant agreement, and

(b) confirms that, in preparing the report, the committee has taken such evidence as it considers appropriate.

(7) The matter is referred to the PJC for a preliminary determination on genocide perpetrated by a counter-party to a relevant agreement.

(8) Following a preliminary determination from the PJC under subsection (7) the Secretary of State must prepare a response to the responsible committee of the House of Lords.

(9) Subsection (10) applies if, after receiving a response from the Secretary of State to the preliminary determination mentioned in subsection (7), the responsible committee of the House of Lords publishes a statement to the effect that—

(a) it is not satisfied by the Secretary of State's response, and

(b) it seeks a debate on the report.

(10) A Minister of the Crown must make arrangements for a motion for the House of Lords to take note of the report and the Secretary of State's response to be moved, within a reasonable period, in that House by a Minister of the Crown.

(11) A Minister of the Crown may by regulations made by statutory instrument make provision for or in connection with the establishment and funding of, and appointment to, the PJC, and the process of referral and preliminary determination made pursuant to subsections (2) and (7).

(12) Regulations under subsection (11) above may in particular—

(a) specify the procedure by which members (who must have held high judicial office) may be appointed to the PJC, and on whose authorisation;

(b) make provision about the procedure and rules of evidence necessary for consideration of a referral mentioned in subsections

(2) and (7), allowing for hearings under oath, the collection of evidence, including exculpatory evidence, and the standard of proof to which the PJC should work.

(13) In making such regulations the Minister of the Crown must have regard to—

(a) the experience gained in the operation of this section;

(b) the object and intended purpose behind the operation of this section including—

(i) the upholding of all undertakings in and international obligations arising from the United Nations Convention on the Prevention and Punishment of the Crime of Genocide;

(ii) provision of meaningful referral without unreasonable hindrance to the PJC or the committee making the referral pursuant to subsection (2) or (7).

(14) Regulations under subsection (11) may contain supplemental, incidental, consequential and transitional provision.

(15) A statutory instrument containing regulations under subsection (11) is subject to annulment in pursuance of a resolution of either House of Parliament.

(16) In this section—

"counter-party to a relevant agreement" means a counter-party with which the United Kingdom has a bilateral trade agreement or is engaged in negotiations for a bilateral trade agreement;

"genocide" has the same meaning as in the Convention on the Prevention and Punishment of the Crime of Genocide (see Article 2 of the convention) and refers to genocide occurring, or continuing, after this section comes into force;

"Parliamentary Judicial Committee" or "PJC" means an ad hoc committee established in accordance with regulations under subsection (11), comprising five members of the House of Commons or House of Lords who have held high judicial office;

"preliminary determination" means a public finding by the PJC of genocide perpetrated by a counter-party to a relevant agreement, after due consideration by the PJC of all available evidence;

"the responsible committee of the House of Commons" means any select committee of the House of Commons charged with responsibility for this section;

"the responsible committee of the House of Lords" means any select committee of the House of Lords charged with responsibility for this section.""

Lord Alton of Liverpool (CB): My Lords, in declaring my non-financial interests as listed in the register, and turning to Motion B1 and Amendment 3E in lieu, I give notice of my intention to seek the opinion of the House when the time comes. The arguments in favour of the all-party genocide amendment have been extensively aired in Committee, on Report, and in deciding to send the amendment back to the House of Commons, so I will not rehearse again all the arguments about the total inadequacy of our response to genocide, but simply set out why this proposition should be sent back to another place with the strongest possible message that this House will not remain indifferent or silent in the face of the very worst atrocity crimes, and nor will your Lordships be satisfied with a sleight of hand.

2.15 pm

In addressing us, the Minister said three things that I will immediately address. First, he said that this would change our constitutional approach by the back door. It is not changing our constitutional approach, for reasons I will give, and certainly not by the back door: we are debating an amendment on the Marshalled List. Secondly, he said that it would blur the distinction and challenge the separation of powers. It would do neither of those things, for reasons I will come to. Thirdly, he said that it is a determination that can be made only by a court of law, and then said that the Government are opposed to providing the opportunity by empowering a court of law—the High Court in this country—to make such a determination. The Government are tying themselves in knots; I will explore some of those knots.

Our amendment would merely insert a committee of legal experts into the proposal sent here by the elected Chamber. It cannot be unfettered and unaffected by other considerations. I say to the Minister that I too am a free trader, who calls in his defence Richard Cobden, the greatest advocate of free trade, but who said that two of the greatest evils of his day—the transatlantic slave trade and the opium trade in China—were unconscionable evils that overrode the creed of free trade. It is not difficult to imagine what his response would be today if he were confronted with what is happening to the Uighur Muslims. The Foreign Secretary, Dominic Raab, yesterday described their suffering to the United Nations Human Rights Council:

"The situation in Xinjiang is beyond the pale. The reported abuses—which include torture, forced labour and forced sterilisation of women—are extreme and they are extensive. They are taking place on an industrial scale."

On the very pertinent issue of trade, the Foreign Secretary said that

"no company profiting from forced labour in Xinjiang can do business in the UK"

and that he will ensure

"that no UK businesses are involved in their supply chains."

In line with this, the Government have repeatedly told the House that they are not seeking a free trade agreement with China. But this is not the whole story, and we must be wary of falling for the stage magic of rabbits and empty hats.

We need to focus on a reported meeting in Downing Street on 12 February because of what it reveals, not on an illusion. On one hand the Foreign Secretary rightly sets out his strong message and Ministers opposed to this amendment reassuringly tell Parliament that there is no imminent prospect of the United Kingdom signing any new trade or economic agreements with China. They tell us to trust them and that if there were any evidence of serious human rights abuses they would themselves baulk at signing such agreements, thus making the amendment otiose. Indeed, it was the Minister who told us, in terms, in our previous debate:

"Any responsible Government, and certainly this one, would have acted well before then."—[*Official Report*, 2/2/21; col. 2082.]

However, in the same week, the Minister answered a PQ on trade with China saying that

"we are pursuing increased bilateral trade."

This is to be seen in the context of a 100-page legal opinion by Alison Macdonald QC, a leading barrister, that there were strong legal grounds to conclude that crimes against humanity and genocide are being perpetrated by the Chinese state.

Yet last week the Prime Minister held a round table with companies trading with China, such as Swire Group and Tenacity, and is reported as saying that, despite occasional political differences, he wants a resumption of formal trade discussions with China, reactivating two forums, the Economic and Financial Dialogue and the China-UK Joint Economic and Trade Commission—JETCO—which had both been suspended in response to China's repression of civil rights in Hong Kong. Meanwhile, the situation in Hong Kong continues to worsen, while atrocities in Xinjiang, as the Foreign Secretary said yesterday, are on "an industrial scale". This, too, has to be seen in the context of the Biden Administration naming events in Xinjiang a genocide and criticising the European Union for pressing ahead with a massive investment deal with China. Only last night, the Canadian Parliament voted 266 to zero to recognise the Uighur genocide.

In 1941, in a live broadcast from London, Winston Churchill said that the systematic slaughter of six million people was

"a crime without a name".

In 1948, Raphael Lemkin gave it a name and crafted the genocide convention, with duties that we are required to affirm. It is an international treaty. Lemkin expected the word to be matched by deeds, but it never has been. We fail to predict genocide. We fail to prevent genocide, to protect victims of genocide and to prosecute perpetrators of genocide. The genocide amendment is a modest attempt to address some of those failings. The very welcome election last week of the British QC, Karim Khan, as the new chief prosecutor of the International Criminal Court may be another harbinger of change.

This brings us back to today. We are well within our constitutional rights to ask the House of Commons to think further about this. On Report, the House unequivocally passed this all-party amendment by a majority of 126. It failed in the Commons by a slender margin of 11. On its return to the Lords we passed it by an even bigger majority of 171, with 359 votes to 188. It secured those votes thanks to the strong bipartisan support of Back-Bench Members and Opposition Front-Bench spokesmen, notably the noble Lords, Lord Stevenson of Balmacara, Lord Collins of Highbury and Lord Purvis of Tweed, and from the government Benches the noble Lords, Lord Blencathra, Lord Cormack, Lord Polak and many others. There were also the sponsors of the amendment: the noble Lords, Lord Forsyth and Lord Adonis, the noble Baroness, Lady Kennedy of The Shaws, and, at an earlier stage, my noble friend Lady Falkner of Margravine.

Unfortunately, in a procedure heavily criticised by Sir Iain Duncan Smith, the former leader of the Conservative Party, the opposition Front Bench and Members from all parties in the Commons, they were denied a separate vote on the genocide amendment. I say to the Minister that after 40 years of serving in both Houses, I am well aware of the precedents, but I am also well aware that business managers can use the Order Paper to their advantage and to frustrate Parliament when they wish to do so.

Instead, a government-inspired amendment was passed, simply enabling Select Committees of either House to consider whether a genocide is under way in a particular jurisdiction. It does not require an Act of Parliament to enable that. It is hardly what the Minister described as a middle way. This is a power which Select Committees already enjoy; it does nothing to break the current policy conundrum whereby the Government maintain that genocide is, as we have heard repeated in your Lordships' House, a matter for "judges, not politicians", while knowing that there is no prospect of any judge hearing the case, owing to the ability of certain states to frustrate the international judicial system.

As recently as this morning, the Minister's department told the BBC that it will continue to argue that genocide determination is only for the courts, but now the Government say that they will allow a Select Committee to take a view. What is it supposed to take a view on? It is surely on whether the committee believes a genocide is taking place, but that will not be taken as a determination. A former Minister told me that the argument that this must be decided by the courts, knowing that there is not one empowered in the United Kingdom to resolve it, had become an unsustainable embarrassment, with Ministers expected implausibly to repeat the argument ad nauseum in the face of unfolding atrocities.

We now have a situation where the Government are asking Select Committees to do something that they believe is impossible, and which the Government have no intention of taking any notice of. This is just as in 2016, when the Commons passed a Motion saying that a genocide was under way against the Yazidi and other minorities in northern Iraq. The Government said it had no status to do that—and that was on the Floor of the House of Commons, not just in a Select Committee. It will require all the powers of a stage magician to untie the knots with which the Government's contradictory arguments have become entangled.

[Lord Alton of Liverpool]

The amendment has two further serious defects. First, it applies only to prospective free trade agreement counter-signatories, which excludes China, and therefore, as the Government well know, would do nothing to help Uighurs. Secondly, the government-Neill amendment applies only to genocides which occur

"in the territory of a prospective FTA counter-party".

This is very broad framing, applying to state and non-state actors alike. Conceivably, the Select Committee could hold accountable an FTA counter-signatory state for the actions of a group or even a single individual within its territory, a very serious defect which our new amendment corrects.

The all-party amendment is a genuine attempt to meet the Government half way. With the wise help of the former Supreme Court judge, my noble and learned friend, Lord Hope of Craighead, we have tweaked the government amendment to enable the appropriate Select Committee to refer evidence, if it had found some, to an ad hoc judicial committee comprised of Members of our House who have served at the highest levels of the judiciary. Although it is emphatically not a court—which was the preferred option of your Lordships, as expressed in our earlier amendments, and remains my own preferred option—it would be empowered to determine whether the evidence is sufficient to support the claim that genocide had been, or was being, committed by a state counterparty to a bilateral trade agreement.

We have not sought to undo the constitutional reforms of 2009. This amendment emphatically does not reinsert a court in our House. Those participating will be former and not existing judges. It merely makes use of the tremendous legal expertise of this House to provide a credible analysis which no existing Select Committee could hope to emulate or achieve. Ultimately, the House of Commons and the Executive would still have the final say on what they want to do about such a finding, though, as my noble and learned friend has said, it would be authoritative.

We also believe that with the further modifications we have made, our amendment in lieu will gain additional support in the Commons. Following the last Commons debate, many Members from all parties have urged us to give them the chance to consider this question further. Unfortunately, it now appears that the Government have decided at short notice to resist this amendment, despite ample time to hold further discussions if they had genuinely wanted to find a way forward. Earlier today, Sir Iain Duncan Smith said:

"I had a week of discussions with various Ministers, who were amenable and even positive about this approach. At no point were any of these objections raised. This is a genuine, reasonable, decent compromise which meets the Government's desire to avoid the courts while allowing for a serious interrogation of the facts."

Although the shifting sands have moved, this may not have been a breach of good faith by individual Ministers; it may come from higher up the food chain. Only the House of Commons can now put that right. This is now bound up with high politics, big vested interests and not the deterrence of genocide. Parliament must not allow itself to become part of an alibi for inaction, which is why we should do as parliamentary colleagues have urged us and send this back for further consideration. I beg to move.

Lord Cormack (Con) [V]: My Lords, I make it plain at the outset that I shall give strong support to the noble Lord, Lord Alton. The small amendments that I have made are so that I can participate as I have in the other debates. I make no apology for this. As we said last time, we are urged to stay away, we say that we are treated equally. That is not true, so I have put down two amendments which I think slightly improve the noble Lord's amendment, but I do not intend to press them if he does not want me to.

I begin with a tribute to the noble Lord, Lord Alton. He has received many and deserved them all. He and I first became associated when drawing attention to and deploring genocide at the time of Srebrenica, in the other place. We both spoke on it, deploring the lack of response from the international community. It was not only genocide but an international scandal. Today we are offered by the Government a few fig leaves, and the noble Lord has very properly demolished the Government's argument. If the Government are indeed, as I believe, opposed to and revolted by genocide, then even at this late stage I implore my noble friend on the Front Bench, for whom I have high personal regard, to urge his ministerial colleagues to listen to the good sense of the amendment placed before us.

During the last debate, we were in effect offered a challenge. The Government were offering to do things within Parliament, still clinging to their oft-repeated assertion that only judges could ultimately decide. It is a challenge that we have accepted and, with the wonderful help of the noble and learned Lord, Lord Hope of Craighead, we have this amendment to place before your Lordships' House this afternoon.

2.30 pm

We should rejoice that in this House we have so many eminent legal brains. We are suggesting that we should enlist the services of some of those who have served in the Supreme Court and have held other kinds of high judicial office—we should remember that we have three former Lord Chief Justices in this House—if a committee of either House detects genocide and asks them to advise. We are keeping it within the parliamentary forum, which the Government assert they wish to do, and are using some of the highest legal brains in the world, which the Government have implied they want to do. This is an eminently sensible amendment.

I am one of those who believes very strongly that ping-pong should not go on for ever, but if we vote this afternoon, which I hope we will, and if we have a great majority, which I hope we will have, I do not believe that we will be in any way transgressing the bounds of parliamentary propriety. We are responding to a challenge from the Government and putting forward a new suggestion that keeps us within the parliamentary context and the parliamentary forum.

We must give our colleagues in the other place the chance to assess what we are now offering them. I hope that they will agree that it is a realistic, sensible and balanced offering. If they do, I hope that the Government will concede that Parliament has made a very important step forward in the battle against genocide.

Of course, there is another reason why we should do this. As was referred to by my noble friend Lord Alton, the vote in the other place was rather fudged

last time. This time, I hope the other place will have one issue to decide on—a carefully thought-out amendment that realistically meets the Government's challenge and that will enable Parliament to play a real part in upholding the morality integrity of our country. There are some things that we should never sink to in global Britain. Global Britain should be an example to the world in its rigid adherence to the rule of law and its total desire to eliminate genocide. Okay, a few trade deals might have to go, but is it not better to retain our moral integrity as a nation—one that has embarked on a new and hazardous chapter in its life? I beg your Lordships to support the amendment of my noble friend Lord Alton.

What is going on, as we speak, in Xinjiang and in Hong Kong, to which we have a continuing and recognised moral responsibility, disgraces a great nation—one built on a great civilisation. It is appalling that the CCP—the Chinese Communist Party—should extinguish in the most brutal fashion the human and constitutional rights of every free-born man and woman. I beg noble Lords to support this amendment and to send an emphatic message to the other place, and I beg our friends and colleagues in the other place to vote with courage, integrity and determination when this amendment comes before them.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, the following Members in the Chamber have indicated that they wish to speak and I will call them in this order: the noble Lords, Lord Blencathra, Lord Polak and Lord Shinkwin, the noble Baroness, Lady Kennedy of The Shaws, the noble Lord, Lord Adonis, and the noble Baronesses, Lady Jones of Moulsecoomb and Lady Falkner of Margravine. After the final speaker, I will open it up to anyone in the Chamber to speak.

Lord Blencathra (Con): My Lords, I rise for yet another time to support my noble friend's amendment on genocide.

As Peers, we know our place, and this noble House asks only that the other place think again about the amendment put forward by the noble Lord, Lord Alton. Last time, the other place did not get a chance to think again because, in a brilliant and fiendishly clever move, our amendment was not considered. I pay tribute to the Government. It is the sort of clever, dirty, underhanded trick that I would love to have played if only I had thought of it when I was Chief Whip.

I will not spend time on the merits of the amendment and why it is necessary. The case has once again been put with frightening authority by the noble Lord, Lord Alton, and my noble friend Lord Cormack. The justification for it is overwhelming and in direct contrast to the increasingly desperate government excuses not to accept it, all of which have been discredited.

The Government say that only a court can decide, so they do not want a committee of former Supreme Court or High Court judges; nor will they tolerate the High Court—the second-highest court in the land—although they say that a court has to decide. They Government want only the International Criminal Court to adjudicate but they know full well that that is a sham. No case of state genocide will get before the International Criminal Court in a million years because it will be blocked by one or more players in the Security Council. No Minister, in either this House or the other place, can stand before a Dispatch Box and say hand on heart that he or she honestly expects a case ever to get before the ICC, so I am afraid that the Government's case is a sham. I do not blame my noble friend the Minister, who is thoroughly decent and very able, as he has been handed a poisoned chalice. But, while he has been forced to drink from it, the rest of us have not.

Initially, I simply could not understand why the Government, whom I support, are so terrified of passing this amendment—a Government who have had the courage to leave the EU and stand up to its bullying, have threatened to break international law with regard to the Northern Ireland protocol and have had the courage to throw out some of Putin's spies but are terrified to make one gesture in case they offend the Chinese regime. But I think I can throw some light on the Government's inexplicable position on this matter, and it is our dear friends in the Foreign, Commonwealth and Development Office, who are never short of a tyrant or two whom they can appease. A few weeks ago, I asked the FCDO about our relationship with China and, in a Written Answer last week, they called China an "important strategic partner". That can be found in the Written Answers produced by Hansard.

Can your Lordships believe that? The UK Government consider China to be a strategic partner. Now, if they had said that China was a very important trading entity and we had to be careful in how we negotiated with it, I could accept that, but "strategic partner"? Surely that is the terminology we use to describe one of our NATO allies, not the despotic regime run by the Chinese Communist Party. But that perhaps explains why we do nothing about China and say nothing—in case we cause offence to our valued, so-called "strategic partner." So, the Foreign Office calls a country which imposes dictatorship on Hong Kong, threatens Taiwan, and steals islands in the South China Sea to turn them into military bases, a strategic partner.

China caused the Wuhan virus, covered it up and lies about it every day, and economically attacked Australia when it called for a genuine independent inquiry into the virus. It steals every bit of technology it can, has cyberattacked all our vital industries, infiltrated our universities and schools, and the new head of MI5 says that it is a threat to our western way of life and democracy, yet the FCDO calls it a "strategic partner". Typical FCDO: sue for peace before anyone declares war.

We can do nothing about these things in this Bill, but the western world has to get off its knees and start to stand up to China before it is too late. The genocide of the Uighurs, of which there is now overwhelming evidence, is a sample of how the Chinese communist regime will treat every race and people it subjugates.

In this Bill we can make a small start by tackling the issue of trading with a country which commits genocide. I thought that the amendment in the name of the noble Lord, Lord Alton, that we sent to the Commons last time was superior to this one. I am certain that it would have passed if Members of the other place had not been robbed of a chance to vote on it.

[Lord Blencathra]

Last week the Canadian Parliament voted to describe the treatment of the Uighurs as genocide. If our Canadian colleagues can make such a judgment, surely the great Parliament of this House and the other place is able to do likewise. This amendment is not going nearly that far, but it wants to start a process of thorough investigation which could eventually determine genocide. It is then left to the UK Government to have a completely free hand to decide what to do about it.

We cannot tackle all the iniquities of the Chinese regime, but this amendment is a start. It will show that the UK Parliament, with our new independence, cares not only about trade and prosperity but about moral issues, human lives and people in a faraway country of whom we know nothing, to paraphrase Chamberlain.

I say to the Government that this will not go away. This House will come back to the issue of genocide time and again in every other Bill where there is the slightest chance of pushing an amendment like this. The Government will face this issue again and again until we get off our knees and stand up to China on genocide. I urge all noble Lords to support the amendment in the name of the noble Lord, Lord Alton.

Lord Polak (Con): I rise once again to support my noble friend Lord Alton. It is always a great pleasure to follow my noble friend Lord Blencathra, a former Chief Whip, who does himself down—he knew all the tricks of his trade.

I will not repeat the arguments I made in this Chamber on 7 December or 2 February; they are on record. I pay tribute to my noble friend the Minister, who perhaps could have chosen an easier Bill debut. I am grateful that the Government have listened and tried to find the right path to ensure that those guilty of genocide are not just called out but made to pay for their evil and despicable acts. I am sure we are all agreed on that. Sadly, I am not sure that there is agreement on how it should be done.

As Members have said, it is deeply unfortunate that for such a huge and important issue it was felt adequate to schedule the debate in the other place for just one hour. This ensured the bundling together of your Lordships' amendments in order to stop a vote on the amendment of the noble Lord, Lord Alton. It is true that *Erskine May* is very clear that this is usual practice and is in order. While the business managers followed the letter of the law, they failed miserably in enacting the spirit of the law.

As the noble Lord, Lord Alton, makes clear, his amendment tidies up the Neill amendment. Let me explain by referring to Sir Geoffrey Nice QC, who argued that the Neill amendment applies to state and non-state actors and allows state parties to be held responsible for non-state parties. The alleged genocide does not have to be committed by the state but merely has to have happened in the territory. This contrasts with the Alton amendment, which is limited exclusively to state-sponsored genocide.

2.45 pm

The Neill amendment would allow a Select Committee to force a vote on whether to continue FTA negotiations, allowing for a state to be held responsible via debate and a vote for the behaviour of a non-state party. The ramifications for some countries could be really significant. The Neill amendment would allow the committee to propose discontinuing trade talks with a state which may have done nothing wrong at all; all that is necessary is that alleged genocide took place in its territory. This is why the amendment in the name of the noble Lord, Lord Alton, is the right one.

The Jewish festival of Purim takes place on Thursday night and Friday of this week. This is a day of untold celebration when we read the Book of Esther. In a nutshell, the Jews were living in the lands of the Persian Empire when a young Jewish girl called Esther became queen to King Xerxes and, through her bravery, appealed to the king to save the Jewish people and thwart an attempt to slaughter all the Jews. Purim will be celebrated —I hope in a socially distanced way—throughout the Jewish world this week to commemorate Esther's courage in saving the Jewish people living in Persia 2,000 years ago from extinction.

It is in our DNA to call out injustice and fight for freedom. The Uighurs are calling out for justice and are fighting for freedom. The amendment in the name of the noble Lord, Lord Alton, is a perfect example of calling out injustice and fighting for that freedom. He has worked tirelessly to ensure that we are seen to be doing the right thing. I am honoured and privileged to support him once again.

Lord Shinkwin (Con): My Lords, it is a pleasure to follow my noble friend Lord Polak. Like him, I feel honoured to speak in support of the amendment in the name of the noble Lord, Lord Alton of Liverpool. I also pay particular tribute to the noble Lord, Lord Alton, for his resolve, persistence and most of all his humanity, because that is what this is ultimately about—our common humanity and common responsibility to bear witness to the values that underpin free democratic societies like ours. It is surely the responsibility of those who have power to stand up and protect the universal human rights of those who have absolutely none and who are victims of genocide—whether they be Uighurs, Rohingyas, or Yazidis.

As we have already heard, yesterday our Foreign Secretary gave a powerful speech to mark the UK's return to the United Nations Human Rights Council following its re-election last October. As my noble friend Lord Alton told us, the Foreign Secretary described the situation in Xinjiang as "beyond the pale". He is right to do so because if we want to be taken seriously by our global partners, including those whose agenda is to supplant our value system—especially democracy—then we need to deserve to be taken seriously.

That was yesterday; today, we have this fantastic opportunity to answer the Foreign Secretary's call to arms and, by our deeds in the virtual Division Lobbies, to lend his words essential credence. This carefully crafted amendment enables us to do just that. Contrary to the impression given by the Government, time is of the essence—because genocide is not an academic question. If we want to stop and prevent genocide, we need to facilitate action now, today, by passing this amendment.

There is another reason why we should support the amendment. The Foreign Secretary highlighted in his speech that what is being perpetrated in Xinjiang is

being done on an "industrial scale". I wonder where we have heard that description before because, as any Holocaust survivor would remind us—as if that were necessary—we have been here before. It is astonishing, is it not, that we human beings have an amazing propensity to pretend that each generation is far too sophisticated to repeat the tragic mistakes of the past—yet, as the Holocaust survivor Primo Levi told the world, that is the best way of ensuring that we do repeat the tragic mistakes of the past.

As my noble friend Lord Blencathra said, there is another reason why we have been here before. Like him, I am also thinking of the infamous words of Neville Chamberlain during the Munich crisis in 1938, less than 100 years ago, when he referred dismissively—as we were reminded—to

"a quarrel in a far-away country, between people of whom we know nothing."

In relation to the Rohingyas, the Yazidis or the Uighurs, are we really saying, in 2021, that appeasement pays and we simply do not care about the victims of genocide?

We should care a great deal. This amendment gives us the opportunity to look in the mirror: do we want to walk the walk and stand up for the values we profess to believe in, or do we encourage disrespect, cynicism and further genocides by only talking the talk? Is that what we want genocidal despots like Xi Jinping to think? This is the first test of global Britain's commitment to freedom; let us not fail it. Let us pass this amendment and so enable the elected House to debate and vote on it.

Baroness Kennedy of The Shaws (Lab): My Lords, of course it is rare for this House to resist the opinion of the other place, and to do so again is deeply unusual—but there is a very good reason for doing so on this occasion, and we know what that reason is.

Certainly, on the last occasion in the other place, we saw a regrettable piece of sharp practice, which has been described by others, where the powers that be knitted together two amendments from this House, thereby diminishing the Commons vote. I am sure there was a great deal of back-slapping about who invented that wheeze, but it was unworthy on a subject as serious as this.

It is clear that there was, and remains, a huge clamour of voices, up and down this country and around other parts of the world, calling for this amendment to be passed—because it concerns an issue of profound moral obligation. We are signatories of the genocide convention and people of our word, and we are proud of this. It is worth remembering that we said, "Never again".

My father's generation, which is probably that of the fathers of virtually everybody in this House, fought in the Second World War, and he came home from war battle-worn and haunted by what was revealed when the gates of Auschwitz and other camps opened, having seen the evidence of the barbarity that had been perpetrated. He and others like him of our parents' generation asked themselves thereafter about the horrors and whether they could have been prevented if there had been greater activity, in the 1930s and the years of the war, around what was taking place. Was there a point at which the Nazis could have been stopped in their hellish determination to extinguish a whole people? I wonder what my father would say now.

The genocide convention is about preventing atrocities, not waiting to count the bodies in mass graves to see if the tally is great enough—or waiting until the multiple crimes against humanity reach a level where, somehow, a bell rings. All the evidence received directing us to this most grievous of crimes points to genocide. You only have to hear the testimony of Uighur women, as I have, to register really deep alarm about them having children removed from them or being deracinated and stripped of their language, their culture, their religion and the family they love, placed in institutions a bit like borstals to whip them into line. You would also register alarm about them watching their husbands being taken off to forced labour camps or to disappear forever—and them being sterilised, prostituted and raped themselves. Their personal testimonies are so moving, and there is also the external photographic evidence of destroyed mosques and burial grounds. I have rehearsed that again—you have heard it before—because we must not forget what we are talking about here. The Uighur people are experiencing human degradation, torture and ways in which the human identity is taken from them.

I listened as others spoke about the courts, and I want to clarify some things for the House. Of course, the International Court of Justice is the court for the determination of serious crimes of genocide. There are two international courts that can potentially deal with genocide: the International Court of Justice is where plaints are laid by one nation against another, which is different from the International Criminal Court. The problem with the former—which is the traditional court where matters of this gravity would be dealt with, when a nation is conducting itself in this way—is that, after World War II, a small group of nations were given special status on the Security Council, and they have special powers and can exercise a veto. China is one of those powers, and we know that it would veto any plaint laid against it at the International Court of Justice. I will make it clear: that route to justice is therefore blocked.

The International Criminal Court should not be confused with that; it is where individuals are tried for grievous crimes, but the nation to which those individuals belong has to be a signatory to the Rome statute. China is not a signatory, so that route to justice is also blocked in relation to genocide. This turns us all into bystanders, and that is the problem.

When asked to declare a genocide, our Government says, "This is not a matter for Parliament; we can have debates and committees about it, but it is a matter for a competent court." Of course, that means that we do not act at all; it is a recipe for inaction, which is why today's debate and those that have gone before—as the noble Lord, Lord Glenarthur, has said—will come back if we do not decide today because most Members of Parliament, and many of the people up and country, feel that inaction in the face of genocide is not a position this nation can take.

We have very competent courts, and there are few courts more competent than our higher courts. Creating a procedure which lets a court determine whether there is sufficient evidence is the line that I would be arguing for today, but we are forced to present an alternative because we are meeting such resistance from government.

3 pm

So we are looking for a compromise. The compromise presented to the House by the noble Lord, Lord Alton, is a principled one. It would create a judicial committee made up of the great judges who sit in this House. Their expertise would be drawn on in examining evidence and seeing whether it met legal thresholds. There is huge skill which we in the common law build up over years of experience as practitioners and then in the judiciary. It involves a particular kind of independence of mind that is inculcated over many years.

Let me assure the House that it would not be a conviction if that committee made a determination. It would be making a determination of whether the evidence had reached the standard. It would not prevent a referral to the International Court of Justice, should a time come where that became possible—maybe my prayers will be answered, and the Security Council and the United Nations will be reformed, but I think that we will have to wait a while for that.

The amendment would mean that our elected Parliament could make a decision that steps had to be taken by our Government. We have a whole range of possibilities as to what those steps might be such as the expulsion of ambassadorial staff or targeted sanctions. We now have Magnitsky law, where we can go after individuals, refusing them access to the assets that many of them have in Britain or imposing visa bans on their coming here. Such measures could be taken against Chinese party leaders, the governor of Xinjiang province, the superintendents of labour camps or the Minister of Justice or his equivalent. That move by this country to create Magnitsky law has led many others to do the same, including the European Union, Canada and the United States. Japan is now thinking of introducing targeted sanctions. We were in the lead in taking those steps and creating legal change to give teeth to international law. That is what we should do today by not sitting passively and allowing a genocide to take place.

It has been suggested that the amendment interferes with our constitution. I remind this House of our many debates where we have discussed the constitutional arrangements in this country and delighted in the fact that, by having an unwritten constitution, we have the capacity to create change when change is needed and the flexibility that is not available to many who have entrenched constitutional arrangements. There is no inhibition on our making the changes that were suggested in the original amendment tabled by the noble Lord, Lord Alton.

We vote with frequency as Members of this House. It is an enormous privilege, as we always remind ourselves, to be in this House as people who are not elected. Our privilege should never be abused. However, some votes in Parliament have more meaning and weight than others because they say so much about our values and principles as a nation. They speak to the people that we are. I therefore urge noble Lords here and all those not in this House to vote for this amendment. It calls on courage, integrity and determination and will call upon them from Members of the Commons thereafter if we pass it. I strongly urge it, because this is one of those matters where we are being put to the test as to what we stand for. I urge noble Lords to vote for this amendment.

Lord Adonis (Lab): My Lords, my noble friend has just made an enormously powerful speech, and two points in particular will impress themselves on the House. The first is that the Government's position in saying that it should be for the courts to decide whether a genocide is taking place but not giving them any powers even to offer an opinion on that fact is a recipe for inaction. It is a recipe for inaction in one of the worst causes imaginable because we are talking about genocide. It is a striking fact that, historically, the British Government have never declared a genocide to be in progress before it has been completed. We have to wrestle with the legacy of history. We did not do it in respect of Stalin; we did not do it in respect of Hitler. We have afterwards taught our children in schools about the horrors of genocide against the Jews and against many other races which those dictators and others carried through, so we should learn the lessons and seek to stop genocides in future.

The second powerful point made by my noble friend is that part of the reason why we should go down the route which the noble Lord, Lord Alton, has so convincingly laid out for us is not simply to reveal a genocide that is currently in progress—or may be; that is to be determined, but there is very good circumstantial evidence which should be tested and courts are good at doing so—but to limit the further extension of that atrocity while it is happening. We should do that rather than doing what may well happen, which is that in 20 or 30 years' time, when people may talk about Xi Jinping in the same way as they talk about Stalin and Hitler, we ask: what are the lessons and why did we not learn them at the time?

The course proposed today seems not only deeply moral but relevant in terms of our own capacity to avoid greater horrors and problems that we ourselves will have to face. The noble Lord referred to a red line that he has; we should be much more worried about the red wall which we face in respect of Xi Jinping. That will have to be addressed over time, and it is much better that we get the measure of it earlier rather than later. Surely the lesson from such dictators in the past is that there was a moment when it was possible to stand up to them and find a way through that did not involve extreme action. We could all look at it in due course. The noble Lord, Lord Blencathra, and I had a good-natured exchange last time about what he sees as the great weakness of the Foreign Office. It has not always been weak. My great hero is Ernie Bevin because he stood up to Stalin after 1945 and we did not have to repeat the horrors of another full-scale war. There is plenty of combustible material in respect of China that could lead to war in future. We have only to look at what is going on in Hong Kong and Taiwan, let alone what is going on inside China itself. These matters are weighty. My noble friend said that some votes matter more than others. One reason for that is the consequences of action and inaction, and there is no bigger set of issues than those that we are addressing today.

The noble Lord, Lord Blencathra, said that the Minister, for whom we have a high regard, had been handed a poisoned chalice. We are very glad to see that he is still well on the Government Front Bench and will be in a condition to reply to this debate at the

end. However—if I may use a Chinese analogy—in trying to persuade us not to agree to this amendment, what the Minister has done is offer us a very Chinese artefact: a paper tiger. He has made all kinds of imprecations as to what might happen if we agree to the amendment. Apparently, the constitution is going to be ripped up forthwith, which we are doing by the back door—what a large back door; an extraordinary number of people appear to be walking through it in remarkable unison. We were told that the amendment would somehow go against the wishes of the elected House. On the previous amendment, where the Minister told us not to be seduced by the noble Lord, Lord Lansley, he said that there was a resounding majority in the other place, which was why we should not insist on it. Not only was the majority when the Commons voted on the first of these amendments only 15 but, as the noble Lord, Lord Blencathra, rightly said, there was not a vote on the amendment in the name of noble Lord, Lord Alton; there was a resounding silence on it from the House of Commons. We should therefore resoundingly ask the House of Commons resoundingly to resolve its silence; that is our duty in respect of the amendment before us.

On the second element of the paper tiger the Minister put forward, he said, in establishing his red line, that the Government would not agree to expand the jurisdiction of the courts to assess the existence of genocide. But we are a parliamentary democracy. It is not for the Government to say whether the courts should assess whether genocide has taken place. It is for Parliament to legislate on whether the courts should have that power.

The Minister gave us a constitutional lecture on the separation of powers. It is not for the Government to tell the courts what they will and will not consider. That is for Parliament, making the law, to determine. It does not matter what the Government's red line is; the issue is what Parliament's red line is, and we do not know that yet, because the House of Commons has not had the opportunity to give its opinion. This House has given its opinion twice, which is unusual, since, normally, in ping-pong, we start to become faint-hearted and susceptible to the arguments about the role of this House and all that. Unusually, this House has had larger majorities as we have considered this matter again. I suspect there will be a very decisive majority at the end of this debate, too. I strongly urge all noble Lords who sympathise with the arguments, but are in doubt about what they should do, to vote for the amendment of the noble Lord, Lord Alton, because that will ensure this has the best possible consideration by the House of Commons.

I will make one final point about the red line and the red wall. The issues we face are extremely grave. If you read about the conversation between President Biden and President Xi Jinping, although there is a determination to have decent bilateral relationships, there is no clear meeting of minds between those two great powers. As the noble Lord, Lord Blencathra, rightly said, it would be disingenuous of Her Majesty's Government to pretend that there in respect of the United Kingdom, too.

Many noble Lords may read a thing called *China Daily*, which we have circulated free to us—the propaganda sheets of the Chinese Government. *China Daily*'s account of that conversation should leave one in no doubt about what Xi Jinping said. According to its interpretation, he said:

> "China hopes the US respects China's core interests and cautiously deals with matters related to Taiwan, Hong Kong and Xinjiang, which are China's domestic issues concerning the nation's sovereignty and territorial integrity."

On the opposite page, in a remarkable story headlined "Reporting the truth about China", there is a whole series of assertions and lies about what is going on Xinjiang, including the claim that there are no events that are out of order taking place there, that the re-education camps are to improve the employment prospects of the Uighurs and nothing more, and that in the BBC facts have been "twisted" and the situation

> "has been angled to give a certain, preconceived message."

Of course, since we last debated this issue, the BBC has been banned from China and Hong Kong.

That brings us back to the need to have a clear assessment of what is going on, attracting and weighing evidence. That is the fundamental purpose of this amendment. When this matter was last considered by the House of Commons—in the strange procedure that did not actually allow a vote to take place on the key issue—Greg Hands said:

> "Fundamentally, it is right and proper that Parliament takes a position on credible reports of genocide relating to proposed free trade agreements rather than, in effect, subcontracting responsibility to the courts to tell us what to think."—[*Official Report*, Commons, 9/2/21; col. 219.]

Parliament is not subcontracting responsibility to the courts. On the contrary, it is asking eminent judicial figures and the courts to report on and expose the facts, so we know what is happening. Once those facts have been exposed, it is for Parliament and the Government to decide what action should follow. But we will not get that action unless we have the facts. This is a circular process: we need the facts; we need proper inquiry; we need measured judgments made on them just so that Ministers, such as the noble Lord, Lord Grimstone, can make balanced judgments in due course.

We do not want, in 20 or 30 years' time, to have to spend time in our schools teaching our young people about the genocide in China in the 2020s that we did nothing to resist, involving what could be terrible consequences in terms of the relationships between the great powers, because we were not even prepared to consider whether a genocide was taking place.

3.15 pm

Baroness Jones of Moulsecoomb (GP): I am not sure I have ever said this before, and I do not know if I will say it again, but it is a pleasure to follow the noble Lord, Lord Adonis. He shouts at the Government even more than I do, which I welcome. I agreed with every word he said. It is a credit to the noble Lord, Lord Alton, that he has managed to unite the noble Lords, Lord Blencathra and Lord Adonis. That really is quite remarkable.

In fact, this debate is remarkable. There has been an incredible number of powerful, principled, passionate speeches from all around the House. The noble Lord has united the House on this matter of principle. It shows that this is not about politics. This is not politicking.

[Baroness Jones of Moulsecoomb]
This is about ethics, morality, having a clear conscience and making sure that we behave as a democracy should, by abhorring genocide and people being murdered, tortured and imprisoned. We really ought to be speaking out on it. This is about operating as an enlightened nation, and quite often I feel we fail at that. Here, we have a chance to put that right.

I would like to say that, when we talk about genocide, we ought to talk as well about ecocide—large-scale environmental destruction and ecological damage. Although it is not as obvious, it is a slow genocide. It drives people away from their land, makes them poor and gives them fewer opportunities and terrible lives. We should accept that we do that sort of damage, and that we do it in virtually every act of our lives. In some way, we impact on our environment and the rest of the world and, by doing that, we can damage the health and well-being of other nations and people who live in the places where we get our food or the minerals for our phones. So we ought to think very carefully about how we operate as individuals and as a nation.

Amendment C3 gives us a route to raise genocide crimes in Parliament and ensure that we do not make dodgy deals with murderous regimes. It also shows effective co-operation between your Lordships' House and the other place. So I congratulate everyone who has been involved in this, particularly the noble Lord, Lord Alton, who has carried us all along in his wake. He is making it easier for us to do the right thing. Remember that: this is the right thing. This is not about politics; it is about honesty, kindness, generosity and being good people.

Having said all that, I would want to pass something much stronger than this, but I accept it has been tough getting even this far, so I also urge all noble Lords to vote for this amendment.

Baroness Falkner of Margravine (CB): My Lords, it is a difficult day for me to stand up and speak from the perspective I will speak from. I know I will disappoint many in this House, not least my noble friend Lord Alton. Noble Lords will know of my long-standing and academic interest in foreign affairs and human rights. I am, therefore, compelled to revert, I am afraid, to first principles and be the only voice to speak in favour of the Government's position.

The noble Lord, Lord Alton, passionately believes in two propositions. The first is that the international human rights system is broken, and the second is that we must create a vehicle to punish China in a generic Bill that is intended to define the process by which we scrutinise trade deals. That has been the tenor of most of the speeches we have heard today. I shall briefly set out why, with enormous respect for him, I oppose both approaches.

The noble Lord will know that Lemkin and Lauterpacht did not work on the conventions on genocide and crimes against humanity for their unilateral use. They were designed to be multilateral instruments to protect the international human rights system. That system, largely created by the United Kingdom, is now in its 70s. It is problematic and does not have the tools to deal with violations whereby state parties are themselves major enforcers of the system while carrying out egregious violations. We cannot challenge them due to the mere fact that they sit with us on rule-making bodies such as the United Nations Security Council. The noble Baroness, Lady Kennedy, alluded to that. It is therefore left to the rest of the world to take action jointly and multilaterally. That action is still there for us to take, irrespective of the fact that China sits as a permanent member of the Security Council. It is the route that the Government wish to take; at least, that is my understanding of their intentions.

The noble Lord, Lord Adonis, speaks of the lessons of history being historical. Yes, the lessons of history are usually historical, and today's system has held for 70 years. There have been violations, which we have heard about in this Chamber. As to the idea that the United Kingdom unilaterally could have done much about them, I cast my mind back to my 40-something years in foreign affairs and remember only one occasion when the United Kingdom was able to intervene unilaterally—a small-scale invasion in Sierra Leone in the early 1990s. It was a brave attempt, which succeeded. However, on the whole, and with some caution, I warn people that if they think that by passing this kind of amendment we are going to be free to stomp the world unilaterally, taking on powers such as China, they need to think again.

My second point, which is about China, demonstrates exactly what is wrong with this debate. In the final analysis, I am unprepared to use generic legislation for specific ends. I refer also to the suggestion of the noble Lord, Lord Adonis, that the judicial committee advocated in the amendment would merely help us to ascertain the facts. Judges are not substitutes for intelligence reports, scrutiny undertaken by our Select Committees or academic scrutiny. We have all heard during the passage of the Bill about the numerous reports of the last three years, not least from the noble Lord, Lord Alton. That is a matter for us. It is a circular argument of the noble Lord, Lord Adonis, whereby the facts show that genocide is happening in China, yet we need a committee to tell us of those facts.

I do not come to this House every day to pass legislation in order to pass on that responsibility to great judges, however learned they may be. These two Houses are the places where the law and changes to it must be deliberated upon and agreed. Each and every one of us carries that responsibility and it should not be outsourced to our colleagues. It is for us, as parliamentarians, to determine these matters for ourselves on the basis of our own intellect and conscience.

The noble Lord, Lord Blencathra, had a good go at the Foreign, Commonwealth & Development Office. As noble Lords can imagine, if one has been involved in foreign affairs for some 40 years, one has seen people come and go. He says that the western world needs to stand up to China. I agree and have been saying so in this House for more than a decade. My first encounter with human rights abuses of the Uighurs in China was in 2004, the same year in which I entered this House, when I found out on a trip to that country what was actually going on. I agree with him that we need to stand up to China, but in doing so, we have no choice. We are a mid-sized power with a mid-sized economy, and our jobs, our people's human rights,

also matter. Not many people recall that human rights also include social and economic rights. Our jobs and our citizens' human rights are at stake in these debates, particularly if we single out one country for action in a generic Bill. We might do that but it will serve as an impediment to other countries in doing trade deals with us.

If we want to stand up to China, we have no choice but to do it through working with the United States, the European Union, the Commonwealth and all the other strategic powers. Here, I concede that I do not see China as a strategic partner. However, along with other strategic partners, we need to decide how to amend and strengthen the existing global order to make China respect and uphold the values that we wish it to.

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, at this point I must ask if there is anyone else present in the Chamber who wishes to contribute to the debate. No? In which case, I shall call the noble Lord, Lord Purvis of Tweed.

Lord Purvis of Tweed (LD): My Lords, characteristically, this has been another powerful debate with, inevitably, a degree of emotion—but less emotion and more considered judgment, which is appropriate at this stage of the Bill.

My view is that the UK can act; and when we act, many people still look at how we pass our legislation in this Parliament and at our behaviour around the world. We can lead by example and, in many cases, we have done so. If it were argued that proposals on human trafficking and forced labour should not reach beyond UK businesses operating globally, and that we should act only in a multilateral forum, other countries would not follow. The UK's record on human rights has been good but should be better. This debate, because it is on the Trade Bill, is about how we interact with our views of human rights and what triggers exist to remove preferential trading arrangements from countries that are in gross dereliction of their duty on human rights, regardless, in many respects, of a flawed decision by an international tribunal. Ultimately, it is the UK that makes its decisions.

Five years ago, President Xi was addressing both Houses next door in the Royal Gallery. I shall refer to China first and then open up my argument to the wider area of human rights. A joint statement was issued by the UK Government and the Chinese Government, and I hope that the noble Lord, Lord Blencathra, had his beady eye on it then. The communiqué, issued on 22 October 2015 stated:

> "The UK and China commit to building a global comprehensive strategic partnership for the 21st Century. This visit opens a golden era in UK-China relations featuring enduring, inclusive and win-win cooperation."

"Win-win cooperation" is a classic Chinese line. The statement continues:

> "In the last decade, the bilateral relationship has flourished and matured with close high-level exchanges, deeper political trust, fruitful economic cooperation and wider people-to-people contact."

Some of those factors remain the case but some have been significantly damaged, as noble Lords have indicated and as the Foreign Secretary highlighted. That joint communiqué highlighted seven co-operation agreements, covering £30 billion of trade, strategic partnership agreements and joint alliances providing preferential relationships. However, it did not include a free-trade agreement. We have more than £30 billion of trade covering a whole separate area.

3.30 pm

The question in my mind, which the Government have failed to address from the beginning of the Trade Bill until now, is what consequences there are for preferential trading agreements with a country which the UK has decided is acting beyond the pale, in advance of waiting for any form of international tribunal so deciding. As the noble Lord said in the House when he became a Minister, he has visited China over 300 times in 30 years. There is probably no one contributing in this debate with greater experience of visiting and working with China. The question now is what the Government will do and what the consequences will be for our trading relationships. At the moment, there are insufficient mechanisms to trigger to pull back on our preferential trading relationships with China.

An interesting fact that has not been mentioned so far—I hope noble friends will not be surprised if I mention the European Union, though this is not the classical Liberal line of saying that we were better inside it—as we discussed this morning at the all-party trade strategy group that the noble Lord, Lord Lansley, chaired before, is that the European Union has published its trade review. The European Union trade review, to give one example, has now put forward proposals to make companies legally responsible for violations of labour and environmental standards in their supply chains. The Government have not indicated this.

Why have they done this? European Commissioners have put forward this proposal because they know that Volkswagen operates a manufacturing plant in Xinjiang, and that clothing goods have been used in the re-education camps for forced labour. It is inconceivable that some of these products are not in the UK at the moment; coming from a textile area, I always make sure that I know where the wool for my suits or the cotton for my shirts is produced. How many among us are wearing Chinese garments at the moment? How many of us have asked where those garments were produced and what the labour standards were in those factories? I hope this debate opens up the wider aspect of forced labour and human rights.

My point is that the trade policy review, which is looking at hard-wiring rules specifically on forced labour in trade law, is a result of the European Parliament indicating that it may not approve the China investment accord. It is the strength of Parliament, on behalf of the people, to indicate that trading relationships must have standards on human rights. What is our framework? What is the Government's approach on triggering mechanisms and what consequences will there be?

Moving on to what the Minister has said, I am glad that this debate was shortly after the previous one, because we all heard him say that it is not possible for the Government to guarantee debating time for recommendations from committees. However, this is now the Government's position in their amendment. The inconsistency is so glaring. I agree with the noble Lord, Lord Adonis, that this is not a great constitutional

[Lord Purvis of Tweed]
issue—this is the Government's choice. If they wanted to make these changes, they could. They have just chosen not to.

The third area is that we have now embarked on trading discussions with other countries in which there are allegations of considerable human rights abuses. I mentioned previously our discussions with Cambodia. The European Union has removed trade preferences on certain areas of trade with Cambodia. The UK has not done that; we are still operating the full trade preferences. In a Written Answer to my noble friend Lady Northover, the noble Lord, Lord Ahmad, said

"The UK is concerned about the trajectory of democracy in Cambodia"

and, going on to say all the human rights concerns, said

"The UK also uses multinational fora to raise concerns",

but not, clearly, about trading relationships. That omission must be resolved.

The noble Lord, Lord Adonis, is absolutely right that we should not simply have mechanisms that are retrospective if an international body has so decided. I accept the argument that there are significant flaws in having that with countries such as China, but looking online at Genocide Watch—an organisation I have not spoken to so cannot verify the information—China is highlighted in the area of Stage 9 warnings for extermination of people. Iraq and the Yazidis are there, as we have debated previously; so are Ethiopia, India for Kashmir and Assam, Turkey with the Turkish army, Saudi Arabia in Yemen, Myanmar with the Rohingya, Burundi, Nigeria, the Central African Republic, Somalia and Sudan. If we are to have preventive policies on human rights, we must have clear policy on human rights and trade from the Government.

I repeat what I said in the previous debate. These Benches are not asking the Government to do what they did not say they intended to do themselves. The noble Lord, Lord Ahmad, told the Joint Committee on Human Rights in its inquiry into human rights protection and international agreements:

"The UK's exit from the EU provides us with an opportunity to explore how we can most appropriately use free trade agreements to pursue broader international objectives … The Government is exploring all options in the design of future trade and investment agreements, including relevant human rights provisions within these".

We are still to see these. Until we do and the Government can be clear what consequences there are in our preferential trading agreements for countries such as China, the Minister can be assured that this House and the parties and Members in it will pursue these issues relentlessly.

Lord Collins of Highbury (Lab): My Lords, one thing that is clear in this debate is that this House is united in its absolute opposition and horror to the crime of genocide. There is no difference between us. I also pay tribute to the noble Lord, Lord Alton, for his work on human rights.

Throughout the scrutiny of this Bill, the debate has been about ministerial accountability and parliamentary scrutiny. These Benches originally sought to complement the original amendment of the noble Lord, Lord Alton; we wanted to provide a safety net in case the courts decide there is insufficient evidence to permit a ruling of genocide. We also know that the horrific crime of genocide is above all those other despicable crimes against humanity, crimes which we often hear reports of but which would not pass the test of genocide. That is what we were trying to do. I say to the noble Baroness, Lady Falkner, that in scrutinising this Trade Bill today we are trying to ensure that we match the UK's commitments with its actions, including on human rights and international obligations, when it comes to preferential trade, as the noble Lord, Lord Purvis, just indicated.

I have said before—and the noble Lord, Lord Alton, mentioned this in his introduction—that we want proper joined-up government, to end the position of one government department condemning the actions of a country that commits outrageous crimes against humanity while another department signs preferential trade agreements. The noble Lord, Lord Alton, is absolutely right to remind us of the Prime Minister's words on 12 February at a Downing Street round table with Chinese businesspeople; Boris Johnson stated that he was "fervently Sinophile" and determined to improve ties

"whatever the occasional political difficulties".

Genocide is not a political difficulty. We should be absolutely clear where this country stands.

Just a few days after the Prime Minister made that statement, last Thursday, the US House of Representatives reintroduced a bipartisan Bill that would ban imports from China's Xinjiang region unless it is certified they are not produced with forced labour, and allow further sanctions against Chinese officials responsible for abuses against Muslims. Those are the actions of a state that is concerned about these horrendous crimes against humanity.

We are in a different climate, as the noble Lord, Lord Purvis, said. The decisions this Government make on trade outside the European Union, and the way those decisions are taken, are opening up an entirely new frontier in Britain's responsibility for what happens to human rights overseas. The question is whether we embrace that responsibility or ignore it. That is what this debate has really been about. This House has started a debate down the other end and, actually, we have made progress. I have heard speeches from Ministers and MPs that I am incredibly proud of. They have stated their commitment to human rights; they have stated that they will take them into account. We have made progress and we should not forget that.

However, when it comes to the amendment of the noble Lord, Lord Alton, we have a responsibility to ensure, as my noble friend Lord Adonis said, that the Government do not get away with silencing the elected House. It is our opportunity to give the elected House a voice on this subject, because it has obviously indicated its desire to consider this issue. It is really important that we wholeheartedly back the amendment of the noble Lord, Lord Alton, this afternoon. In doing so, we should not forget the words of the Minister about how human rights will play an important part in consideration of trade matters. He has made that commitment and it will be our job in the future, as a House that scrutinises, to hold such Ministers properly to account. I hope that we will increase the majority in this House in support of the amendment of the noble Lord, Lord Alton, this afternoon.

Lord Grimstone of Boscobel (Con): My Lords, we have again heard powerful, reasoned and deeply personal speeches and I deeply sympathise with noble Lords who wish to take a stand on this issue, particularly in light of gross human rights violations committed by the Chinese state against the Uighurs in Xinjiang. For the record, I completely align myself with the abhorrence felt by noble Lords on these matters. We have common ground on that, which is why the UK has led international action, including at the United Nations, to hold China to account for its policies in the region. It is why the Foreign Secretary announced, on 12 January, a series of targeted measures in respect of UK supply chains. This action and the Foreign Secretary's subsequent words demonstrate to China that there is a reputational and economic cost to its human rights violations in Xinjiang.

Where I differ from the comments we have heard today is that I believe that the amendment passed by the other House, which is before us today, is a reasonable, proportionate and substantive compromise on the part of the Government to ensure that the voice of Parliament is heard on this vital issue. Again, I think it is common ground between all of us that we must have a way for the voice of Parliament to be heard on these issues; the dispute has been about the means by which that voice can be heard. However, I make the point again that the decisions to be made on future trade agreements are political decisions. They are—with absolutely appropriate oversight from Parliament, and I accept that point without reservation—for the Government to make.

3.45 pm

I call on noble Lords to join in the political debate about trade and human rights with all of the passion and conviction they have demonstrated in this House in recent weeks on a whole range of topics connected with standards, human rights and other matters in relation to free trade agreements. I ask them to consider rallying around this sensible amendment, which ensures and guarantees in law that they will always have the opportunity to hold the Government to account for their trade policy wherever Parliament itself has identified credible reports of this most heinous crime of all, genocide. It is not the substance that we are disagreeing on today, it is the means by which this should be done.

I believe that the amendment passed by the other place is a fair amendment that avoids the constitutional and other issues that have been brought to the fore with amendments from the Opposition, while also directly addressing the concerns previously raised by noble Lords. We now have the opportunity to vote for that amendment and perhaps bring the Bill, which I stress is a Trade Bill, one step closer to becoming law.

Lord Alton of Liverpool (CB): My Lords, the *Companion* is clear that I should be brief, no longer than three minutes, and I promise to stay within the rules. These have been remarkable speeches and I am grateful to everyone who has taken part. The noble Lord, Lord Adonis, reminded us that the BBC has been banned in China. He did not say why. The BBC has been banned in China for broadcasting testimonies given by Uighur women. They were silenced for speaking. We have not been silenced today—it is one of the privileges that we enjoy, referred to by other noble Lords, to speak and to act. We must use our privileges; we must uphold our values and give the world a lead.

The 1948 Convention on the Prevention and Punishment of the Crime of Genocide was signed by us as a state. It is not a multilateral document but a document affirmed by us as a state, and it places duties on us: to prevent genocide, but also to protect and to punish those who have been responsible. Clearly, we have been derelict in those duties. Nothing in this amendment prevents us acting multilaterally. The only way that the other House can have any say about this issue is for us now to send this amendment back there.

The noble Lord, Lord Polak, said that Purim is coming shortly. In the Book of *Esther*, Esther is told that she has come into this world

"for such a time as this".

For such a time as this, we must now step up to the mark and ensure that this issue of genocide is dealt with in the way it should have been dealt with over these last 70 years. The only way that can happen is by ensuring that we see legislative change, not simply talking shops or paper tigers, as has been put during the debate. I beg leave to seek the opinion of the House.

3.49 pm

Division conducted remotely on Motion B1 (as an amendment to Motion B)

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Motion B1 (as an amendment to Motion B) agreed.

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4.01 pm

Motion B2 (as an amendment to Motion B) not moved.

Motion C

Moved by ***Lord Grimstone of Boscobel***

That this House do not insist on its Amendment 6B, to which the Commons have disagreed, and do agree with the Commons in their Amendments 6C, 6D and 6E in lieu.

6C: Page 2, line 23, at end insert—

"(4A) If regulations under subsection (1) contain provision about healthcare services, the provision must be consistent with maintaining UK publicly- funded clinical healthcare services.

(4B) If regulations under subsection (1) contain provision in any of the areas listed in subsection (4C), the provision must be consistent with maintaining UK levels of statutory protection in that area.

(4C) The areas referred to in subsection (4B) are—

(a) the protection of human, animal or plant life or health;

(b) animal welfare;

(c) environmental protection;

(d) employment and labour;

(e) data protection;

(f) the protection of children and vulnerable adults online."

6D: Page 2, line 41, at end insert— "

(9) In this section—

"UK publicly-funded clinical healthcare services" means publicly-funded clinical healthcare services provided in the United Kingdom, or in the part of the United Kingdom in which the regulations have effect, on the date on which a draft of the regulations is laid;

"UK levels of statutory protection" means levels of protection provided by or under—

(a) primary legislation,

(b) subordinate legislation, or

(c) retained direct EU legislation,

which has effect in the United Kingdom, or in the part of the United Kingdom in which the regulations have effect, on the date on which a draft of the regulations is laid."

6E: Page 3, line 40, at end insert—

"(2A) In this Part a reference to a draft of regulations being laid is a reference to a draft of the regulations, or a draft of the instrument containing the regulations, being laid before—

(a) each House of Parliament, in the case of regulations to which paragraph 4(1) or 5 of Schedule 2 applies;

(b) the Scottish Parliament, in the case of regulations to which paragraph 4(2) of Schedule 2 applies;

(c) Senedd Cymru, in the case of regulations to which paragraph 4(3) of Schedule 2 applies;

(d) the Northern Ireland Assembly, in the case of regulations to which paragraph 4(4) of Schedule 2 applies."

Lord Grimstone of Boscobel (Con): My Lords, with the leave of the House, I will also speak to Motions C1, C2 and C3. I will start by addressing Amendments 6C, 6D and 6E, which are standards amendments that the Government committed to bring forward when we debated standards on 2 February.

Standards underpin our quality of life in so many areas and make the UK a safe and fair place to live. For months, I have been reassuring your Lordships—not always with success—that trade deals will not lead to the diminution of standards. But we have come good on our word. We have signed FTAs with 64 countries—which largely entered into effect from 1 January—none of which has undermined domestic standards in a single area. If this House will indulge me, in over 170 hours of debate on the Bill and its predecessor, not one noble Lord has been able to provide one tangible example of the Government's continuity programme undermining standards.

However, we have listened to the concerns voiced by noble Lords. That is why we tabled a compromise amendment, which I am pleased to say was resoundingly approved in the other place by a majority of 96. I hope that all noble Lords will support Amendments 6C, 6D and 6E today. They provide a cast-iron statutory guarantee that the Clause 2 implementing power cannot be used to lower domestic standards in the listed areas, including animal welfare, the environment and employment rights.

This amendment may look familiar to your Lordships, as it is closely modelled on the compromise amendment tabled to the 2017-19 Trade Bill, which received significant cross-party support. That amendment, unusually, united us with the noble Baroness, Lady Jones, who found herself in "unknown territory" in supporting the Government; with deep respect, I hope that lightning will strike for the second time today. Additionally, the noble Lords, Lord Stevenson and Lord Grantchester, supported that amendment, with the noble Lord, Lord Stevenson, saying:

"I think this is a good day for the issues that people such as the noble Baronesses, Lady Jones and Lady McIntosh, have campaigned for. My noble friend Lady Henig has also been very persistent in making sure that we got something about that into the Bill. I am very happy to support that."—[*Official Report*, 20/3/19; col. 1445.]

Wonderfully, the noble Baroness, Lady McIntosh of Pickering, whom I deeply respect, said that the Government had acted with "graciousness and openness".

These quotes may seem a little outdated, so I draw your Lordships' attention to Committee on this Bill in October 2020, when the noble Lord, Lord Purvis—a man of great wisdom and expertise—tabled the same amendment ad verbum. To paraphrase him, he took joy—understandably—at tabling what was formerly a government amendment, and agreed that it would be a concrete improvement to the Bill. His version of this amendment received cross-party support in Committee, which I hope we can rely on today. To those not lending their support, I ask: why was this amendment good enough just four months ago but not good enough now?

In fact, we have good news before us, because the compromise amendment on the table today goes substantially further than the previous version of the standards amendment which the noble Lord, Lord Purvis, supported. This is entirely due to the quality of debate that we have had on this issue in this House—I say "this House" advisedly. First, we have brought the National Health Service into the scope of the amendment. The Government are, as noble Lords know, utterly committed to ensuring that the NHS's role as a universal health service, free at the point of delivery, is safeguarded. In that spirit, this amendment stipulates that the provisions of an international trade agreement cannot be implemented using the Clause 2 power if they are inconsistent with maintaining UK publicly funded clinical healthcare services. I pay tribute to the noble Lord, Lord Freyberg, and the noble Baroness, Lady Thornton, for their efforts in this area.

Further still, I am again pleased that we have brought the protection of children and vulnerable people online into the scope of this standards amendment, ensuring that the Clause 2 power cannot be used to reduce UK statutory protections for children and vulnerable people online, or relating to data protection. We have put online user safety on the same footing as workers' rights and the environment. I pay due tribute to the noble Baroness, Lady Kidron, for this. She has been a tireless campaigner on this issue, and I thank her on behalf of the Government for working with us on this solution.

There will always be voices saying that we need to go even further, even faster, and do more to protect standards in trade agreements. I believe that we have in front of us a sensible compromise amendment which has time and again united this House in support.

I remind your Lordships that even continuity agreements are subject to joint committees and review clauses with partner countries. This compromise amendment applies only to Clause 2 but it does not affect just the present; it will also provide continuing and far-reaching guarantees on standards in our trading relationships with up to 70 countries. This approach will absolutely set the tone for our approach to future FTA negotiations.

I anticipate that the noble Lord, Lord Grantchester—such an assiduous voice on these important matters—will outline that the Government's distinction that the Bill is about continuity is now a false premise. However, with deep respect, that is incorrect. We are not amending any implementing power for future FTAs, because there is no such implementing power to be found in the Bill. As I said before, Clause 2 can be used only to implement continuity agreements; there is no power in this legislation to implement agreements with countries such as the USA.

We have made it perfectly clear that future FTAs will be legislated for as necessary in separate legislation, and that the Trade Bill is not the correct place to legislate for those agreements. Noble Lords will be able to scrutinise and indeed seek to amend future legislation in any way they see fit.

It has been a long journey on this standards amendment. However, I am delighted that we now

have a sensible compromise on the table which safeguards our high standards, and I recommend that your Lordships join me in supporting it. I beg to move.

Motion C1 (as an amendment to Motion C)
Moved by ***Lord Grantchester***

Leave out from "disagreed," to end and insert "do disagree with the Commons in their Amendments 6C, 6D and 6E in lieu, and do propose Amendment 6F in lieu—

6F: After Clause 2, insert the following new Clause—

"Standards affected by international trade agreements

(1) If regulations under subsection (1) of section 2 of this Act, or any other provisions of primary or subordinate legislation to implement an international trade agreement as defined in section 2(2), contain provision about healthcare services, the provision must be consistent with maintaining UK publicly-funded clinical healthcare services.

(2) If regulations under subsection (1) of section 2 of this Act, or any other provisions of primary or subordinate legislation to implement an international trade agreement as defined in section 2(2), include provision in any of the areas listed in subsection (3), the provision must be consistent with maintaining United Kingdom levels of statutory protection in that area.

(3) The areas referred to in subsection (2) are—

(a) the protection of human, animal or plant life or health;

(b) animal welfare;

(c) environmental protection;

(d) employment and labour;

(e) data protection;

(f) the protection of children and vulnerable adults online.

(4) In this section—

"UK publicly-funded clinical healthcare services" means publicly-funded clinical healthcare services provided in the United Kingdom, or in the part of the United Kingdom in which the regulations or other provisions have effect, on the date on which a draft of the regulations is laid or (as the case may be) the provisions are first published;

"UK levels of statutory protection" means levels of protection provided by or under—

(a) primary legislation,

(b) subordinate legislation, or

(c) retained direct EU legislation,

which has effect in the United Kingdom, or in the part of the United Kingdom in which the regulations or other provisions have effect, on the date on which a draft of the regulations is laid or (as the case may be) the provisions are first published.""

Lord Grantchester (Lab): I thank the Minister for his introduction and explanation of the Government's amendment in lieu on the non-regression of standards. Indeed, I am grateful to him for fulfilling the commitment made earlier to bring forward the Government's amendment at this point and in the Commons earlier this month.

The amendment marks a tremendous step forward for the Government and is to be welcomed. Together, we have built on the initial agreement negotiated in 2019 through the standards amendment to the then Trade Bill that set standards on food, environmental protection and animal welfare into statutory form in trade agreements. That set up the progress that was fulfilled in the then Agriculture Bill—now the Agriculture Act—and is translated further into the Trade and Agriculture Commission, which is implemented in this Bill.

As that progress has been made, the equivalent standards amendment has needed to reflect the wider interpretations of the standards into further relevant areas. While that list may vary among people, as may the relative importance of its elements, it is welcome progress that the Government recognise the fundamental area of employment and labour law, now with the addition of the National Health Service, data protection and online harms. I recognise these important concessions, agreed with the Government, which they have included in their amendments. I thank the Minister for all the discussions he has conducted on the issue.

However, the Government are still stumbling over one important facet of this. In 2019, the nation was in a different place regarding trade agreements. At that time, the amendment related to rollover agreements, which this Bill primarily focuses on. However, that is not the full extent of the Bill as it now stands. Then, rollover agreements had yet to take place. Two years later, as the Minister reminds the House with regular updates, our trading relationships have now been extended to some 70 countries with the continuation of rollover deals. The issue is no longer as pertinent to those deals, as the Government's achievements in maintaining EU-wide agreed standards has recognised. The Government's attention is now focused on the more precarious area of potential trade agreements with countries such as the United States of America, Australia and New Zealand, which would break new ground.

My amendment's focus is different from that of the Government's amendment in lieu as it will also apply to all future trade agreements yet to be secured. With all the delays to this Trade Bill and reinterpretations over developments and over time, this demarcation—this line of argument—has become rather muddled. Indeed, the Government recognised the extension over that line in the Commons, where the Minister there supported an earlier amendment in lieu tabled by Sir Robert Neill which covered new trade agreements, albeit on another issue. Referring back to the Agriculture Act, the main concession reached there was the addition of Clause 42, which created a reporting mechanism to all trade agreements through an amendment to the CRaG process. So it is a rather muddled line indeed.

Taking this patchwork approach together, it is clear that the Minister and the Government understand that UK standards can be affected, even diminished, by trade agreements—both those that exist through agreed EU rollovers and new agreements—and that the UK needs effective protection. I welcome that, but it seems that we are not altogether there yet in terms of having complete effective protection from the impact of future trade deals. However, from the Minister's submission and his further remarks when he comes to reply, this technical drafting can translate into a practical interpretation that it will be all but impossible not to respect the non-regression of standards in all future trade agreements. Does the Minister agree with that statement? Across all the proposals supported by your Lordships' House, the processes of scrutinising and agreeing trade agreements will need to be explored and experienced in how they will work; the Minister's confirmation would certainly be appreciated.

4.15 pm

The Minister could also clarify other aspects further to this technical distinction. As he mentioned in his opening remarks, in setting the tone for their approach

[Lord Grantchester]
to future trade agreements with Canada and Mexico's neighbour, the US, how will the Government reflect that tone in legislation? Will there be a separate new Bill for future trade deals in the upcoming Queen's Speech for the next Session? Will it reflect and build on the reporting mechanism outlined in the Agriculture Act or will it proceed on the rather piecemeal standards approach in this Bill? Will any future trade Bill bring together the patchwork approach to standards, even in the continuation and assessment of the Trade and Agriculture Commission, or will there be no such Bill with wide, enabling continuity of powers but merely piecemeal legislation on each trade deal where such amendments will constantly need to be assessed, perhaps even proposed, at every step along the way? Is the Minister looking forward to that? Will it be an element of each? His clarification would certainly be welcome.

Standards remain the crucial issue to be resolved for the clarification of the UK's trade policy approach. They affect the quality of food that the nation eats, the medicine that the nation relies on for health, the respect that the nation shares with the environment and fellow animals and the content of communications experienced online. The Government maintain that this Bill is not the right vehicle for my amendment. They must resolve the approach between its two departments and how the powers they take will translate all future trade agreements into UK law. Experience may well be needed and helpful to resolve continuing anxieties until this House has that understanding.

I thank the noble Baroness, Lady McIntosh, for her amendment to my amendment in lieu. She raises important issues, acknowledging that there are concerns all around your Lordships' House that food continues to be a vital area for a large majority in all areas of the UK that will continue through constant monitoring. I would welcome the Minister's replies that will satisfy these questions on the Government's position and intentions. With positive responses, it is not envisaged that I will press my amendment to a vote today. The Government have taken up the issue previously dropped and carried it further on the very important considerations at earlier stages of the Bill.

I thank my noble friend Lady Thornton and others for the NHS measure. They have been instrumental in securing this part of the amendment. I also thank the noble Baroness, Lady Kidron, and others for the important pursuit against abuses undertaken online. Further work on this will be welcome as more legislative progress is made. These are all vital areas given tremendous promotion from all corners of the UK and now recognised by the Government in this legislative form. I thank all those who have taken part in achieving this milestone of success; it is a very worthwhile achievement. Everyone will be monitoring further progress toward the expected maintenance of the UK's current standards in all circumstances. I beg to move.

Motion C2 (as an amendment to Amendment 6F)

Moved by ***Baroness McIntosh of Pickering***

In subsection (3), at end insert—

6G: "(g) food safety, hygiene and traceability."

Baroness McIntosh of Pickering (Con): My Lords, in moving Motion C2 I will speak also to my Motion C3. I first take the opportunity to thank my noble friend the Minister for all he has done in taking this Bill forward, in particular for meeting what we like to call the four wizards—the noble Baronesses, Lady Hennig, Lady Jones of Moulsecoomb, Lady Ritchie of Downpatrick and me—last week to talk through the standards amendment, in particular.

I do not wish to appear churlish by tabling the amendments and debating them today, because I appreciate that the House owes a great deal to my noble friend Lord Grimstone for ensuring that the amendment of the noble Baroness, Lady Fairhead—also known as the "Lord Purvis amendment"—has reached, to date, where we are. I pay great tribute to my noble friend for ensuring that that is the case but, as we did with the Fairhead amendment, the three wizards and I tabled a similar amendment to ensure that food safety, hygiene and traceability will form part of the Bill, and I would have preferred to see this in the Bill.

The reason for that is not just what I as a humble Back-Bencher might feel is appropriate, but what the Government's own national food strategy adviser concluded in his interim report. He said specifically that food safety and public health, alongside environment and climate change, society, labour, human rights and animal welfare should be included in future trade deals.

As the noble Lord, Lord Purvis, said in concluding an earlier debate on the amendments before us today, we are in limbo and there appears to be a legislative void at present on what happens to future trade agreements. I congratulate him, because he managed to secure a debate on the free trade agreement with the Faroe Islands, in which I take a particular interest, being half-Danish—I am probably one of the few Members of your Lordships' House to have visited the Faroe Islands. That is a very asymmetric agreement. The noble Lord mentioned that at the time and I totally agreed. We export £80 million-worth of products to the Faroe Islands; we take, I think, something like three times that back—mostly fish, so I hope that the Scottish fishermen are not aware of the asymmetry of that agreement.

There is yet to be a debate on the free trade agreement with Kenya, so I look forward to the opportunity to debate that at the earliest opportunity. We did have the opportunity to debate the enhanced rollover agreement with Japan, which was very welcome.

The reason I tabled the two amendments before us today is on the back of what the noble Lord, Lord Grantchester, said. I supported his amendment at the previous stage and was disappointed to see that it will no longer be on the table, if he is not inclined to press it. The amendment included issues which will now fall: in particular, food standards, on which the NFU had a highly successful campaign, reaching 1 million signatures. That was reflected in earlier amendments which were carried at previous stages.

My concern is that the Food Standards Agency will now report to the Secretary of State for International Development on public health issues and food safety; it will no longer be in the remit of the Trade and Agriculture Commission in this regard. That is disappointing on three levels.

As the noble Lord, Lord Grantchester, said, it was the expectation in Section 42 of the Agriculture Act that it would be the remit of the Trade and Agriculture Commission, and to me it was a great achievement that food standards and food safety would be dealt with in the Trade and Agriculture Commission report, which both Houses of Parliament would be able to scrutinise. If it is now to be subsumed within the Secretary of State's report—on which, we hope, the Grimstone principle ensures that we will have a debate in this place, and the other place, if it is deemed appropriate—we will be able to scrutinise the Trade and Agriculture Commission's report and the Secretary of State's report but not the advice from the Food Standards Agency. That is a matter of great regret. It must also be mentioned that the Food Standards Agency falls within the remit of the Department of Health, and neither Defra nor the Department for International Trade have regular ongoings with it.

I will also take this opportunity to support government Amendments 6C to 6E, but on Amendment 6E, I press the Minister, when he responds to this debate, to clarify its purpose. If the devolved Parliaments, Assemblies and Administrations will have the opportunity to comment on trade agreements, that is all to the good, because this was raised with us as an issue of great concern in proceedings before the EU Energy and Environment Sub-Committee, where we met our opposite committee in the Scottish Parliament. It also raised the fact that under the Trade and Co-operation Agreement which has been reached with the European Union, there may be divergences, not just in environmental standards between the UK and the EU but within the UK and the four devolved nations here. That is a matter of some concern to me. I hope that my noble friend will confirm that Amendment 6E will improve that situation and put the minds of the devolved nations, Parliaments and Assemblies at rest.

I congratulate my noble friend on ensuring that Amendment 6C not only brings back to the table the amendment of the noble Baroness, Lady Fairhead, but, as he explained, will extend to data protection and the protection of children and vulnerable adults online. I commend in this regard the work of the noble Baroness, Lady Kidron, which received such support through the Bill's passage in this place. I also entirely endorse the work of the noble Baroness, Lady Thornton, who brought the NHS to the fore during earlier stages of the Bill, and I think it is appropriate that Amendment 6D reflects that.

I conclude by saying that I hope that if I am unsuccessful in persuading my noble friend to accept my amendments before the House today, there will be future opportunities to do so in the context of consideration of future trade agreements—which, under the Grimstone principle, we have agreed will take place. So, as the Bill sets the tone for future trade agreements, I regret that the issue of food safety and food standards remains open, as we leave the situation today.

The Deputy Speaker (Baroness Garden of Frognal) (LD): The following Member in the Chamber has indicated a wish to speak: the noble Baroness, Lady Jones of Moulsecoomb.

Baroness Jones of Moulsecoomb (GP): I hesitate to disagree with my friend on the Tory Benches, but the word "wizards" was not the one I used; it was the "four witches". In fact, the Minister called us the Gang of Four, which I thought was overstating our power—but who knows in future? It also struck me as very kind of the Minister to look up what we had said last time—that was very flattering, and even more flattering that he thinks we are going to be consistent. Obviously, that was then and this is now and, if we can get more than we got last time, that is what we should go for.

The debate about UK food standards and environmental standards has been one of the most fiercely fought over, and something which, as the noble Baroness, Lady McIntosh, said, has garnered a huge amount of support from all around Britain. The Government managed to unite the National Farmers Union, Greenpeace and the Green Party—and even some Conservative Peers and MPs—in an attempt to establish that food safety and food standards would be paramount when it came to trading. People care about it. The public care about their food and it seems a pity that we are going to lose any aspect of that in this. Of course, the Government have been reminded many times about how seriously we take it in this House.

As a lifelong Green, it has been fantastic to see so many allies. During the whole Brexit process, I thought that party loyalties were breaking down a little. It was obvious in your Lordships' House that there were more and more collaborations across the Chamber, but I think it is this Government who are encouraging a breakdown of party loyalty. It was obvious today in our earlier debate that many of us agree, in spite of our party loyalties and in unexpected ways—so well done the Government for breaking down all those ridiculous party loyalties.

Having said all that, I agree completely with what the noble Baroness, Lady McIntosh, said. It is a pity not to take the final hurdle. However, if the noble Lord, Lord Grantchester, is adamant that he will not press his amendment to a vote, then—next time, next Bill.

4.30 pm

Lord Purvis of Tweed (LD): My Lords, unlike the noble Baroness, Lady Jones, I pride myself on my boring consistency on some of these issues—perhaps the Minister's office has trawled back through *Hansard*. I hope the desire that the UK will be seen as a trading nation of the highest standards has perhaps brought common ground across all parties. If, as the Minister said, that will set the tone for future trading policy and strategy, that is at least one area where there is common ground.

However, the devil is in the details of all these aspects when implementing legislation and, therefore, the implementing regulations for the continuity agreements. As the noble Lord, Lord Grantchester, indicated, we discussed in Committee not just the interaction between the continuity agreements and brand new agreements for countries we had no FTA with, but what happens when we renew and refresh the existing continuity agreements. The continuity agreements, many of which are now out of date, especially the EPAs—some of which we will debate in this House—will need successor agreements. This amendment covers that interaction

[Lord Purvis of Tweed]
between the continuity agreements and the new successor agreements in which we will want to maintain those standards.

One agreement which may have to be looked at again is that with the Faroe Islands. I am glad the noble Baroness, Lady McIntosh of Pickering, raised it. It seems a long time ago that we debated it, but its figures are seared in my memory. I fear she was rather generous about UK exports to the Faroe Islands—as I recall from 2017, it was £3 million in exports from the UK to the Faroe Islands and £229 million in imports from the Faroe Islands, of which £200 million were fish. The Faroe Islands told the All-Party Group on the Faroe Islands last week that, with most of that fish being landed into Northern Ireland and the extraordinary costs per shipping for the certification they need there, it is now looking at bypassing landing that into the UK—where it would then be processed for the EU market through the Republic of Ireland and elsewhere—directly to Denmark. We will therefore have to look at the interaction between that agreement and the European TCA, which we have had little scope to debate in this Chamber in plenary, because there could be a direct cost from that, maybe to our fishermen, for whom it is competition, and to our consumers for whom it is of great interest.

The Minister referred—for the benefit of *Hansard*, with a slightly irreverent eye— to my wisdom in Committee. My wisdom was, perhaps, in seeking today's position. We are approving an amendment—I have written this down to try to get it right—which was rejected in Committee, and which the Government had removed from this Bill but had inserted in the last Bill after saying it was unnecessary at the outset. However, that is some progress. We now know what the Grimstone rule is, and that is very positive; if there is a Purvis political rule, it is "If at first you don't succeed, try and try and try again."

The Minister has been gracious to all who have engaged in this debate. One amendment where the wisdom of my arguments did not prevail upon the Government was to amend Clause 2 to ensure that it was about not just continuity agreements but all agreements. Had that been the case then the points that the noble Lord, Lord Grantchester, raised would have been covered.

I very warmly welcome the Minister saying that this amendment will now set the tone for the new amendments. The manner in which he has done this has also set the tone. On that basis, we will accept where we are at the moment; we have lifted the baseline, so when we engage in these debates going forward, we will start from a higher base. Ultimately, that is a positive move.

Lord Grimstone of Boscobel (Con): My Lords, it is a great pleasure to make my closing speech on this motion with such a spirit of compromise and good will around the House. I thank noble Lords for that and will try to spread a bit of that good will towards food safety when I come to it in a moment.

This Trade Bill was always designed—it seems a long time ago now—to have continuity trade agreements at its heart; I apologise for constantly trying to bring noble Lords back to that. That is because its Clause 2 power, given that the noble Lord, Lord Purvis, failed in his attempts to widen it, allows for the implementation of agreements only with a third country with which the EU had a signed agreement prior to exit day. It does not apply to future agreements with countries such as Australia, New Zealand and the USA. Interestingly, I am advised that successor agreements which derive directly from continuity agreements—for example, those with Canada and Mexico—will be within scope of Clause 2. If I need to elaborate on that, I will write a letter to the noble Lord.

I have said before, and say again, that the UK has a long track record of high standards across all areas. We should be proud of that, and the Government are keen to ensure it continues. However, I realise that, no matter how many times I stand here and repeat this, it will never be enough for some noble Lords. I appreciate that, but I say to them—this is the important point—that Parliament always has the final say. If it believes that the Government of the day have not kept their word and have negotiated an FTA that has reduced standards, it can refuse to ratify or, perhaps more importantly, refuse to agree with the legislation that will be necessary to implement future trade agreements not covered under our Clause 2 powers. It would be more than illogical—it would be foolish—for any Government to negotiate an agreement that they knew could not gain the approval of Parliament.

In direct answer to the noble Lord, Lord Grantchester, who spoke with his normal sincerity and conviction, we do not yet know what form future legislation for future trade agreements will take. We know that it will be necessary in certain circumstances, but it will mean that I have the pleasure of standing across from the noble Lord at the Dispatch Box on future occasions.

I will touch on the very important issue of food safety, which was raised by my noble friend Lady McIntosh, in her Amendments 6G and 6H. I had a helpful conversation with the four musketeers, the noble Baronesses, Lady Henig, Lady McIntosh of Pickering, Lady Jones of Moulsecoomb and Lady Ritchie of Downpatrick, last week, who asked me to provide greater clarity on this issue today. I can provide assurance that the Government's proposed amendment also addresses food safety. It includes references to

"the protection of human, animal or plant life or health",

among other issues. I am advised that that is the definition of sanitary and phytosanitary measures, as outlined in the WTO SPS agreement, and that it incontrovertibly includes matters relating to food safety. So, food safety is included in the amendment; it just has not spelt it out specifically.

Decisions on food safety standards are made outside of negotiations and are informed by the advice of our independent food standards agencies. As we know, all imports must abide by our food safety standards. The Government have also recently enhanced our commitments on scrutiny of food safety and standards in new FTAs, as an additional reassurance. Again, I congratulate Peers, as Section 42 of the Agriculture Act requires the Government to produce a report on whether provisions in new FTAs are consistent with statutory protections for human, animal and plant health, animal welfare and the environment. I am pleased to give the complete assurance that human health includes food safety, as well.

We will be consulting with the independent food standards agencies when producing our report, which will be published ahead of CRaG. These are independent agencies that have the ability, and normally the desire, to produce their own reports and make their views public. Even though this is a matter for them, I would be surprised if they did not want their views on such an important matter to be made known before the House considers such agreements.

The Government have listened to the concerns of noble Lords. We brought forward this amendment in the other place and it secured a majority. I say with caution that no other standards-related amendment proposed by this House has ever come close to doing this. I hope that noble Lords feel that we worked constructively with this House and kept our promises, and join me in voting for the government amendment and taking a decisive step in enacting this Bill into law. I hope that all agree that now is the time for us to move on with this important question, and not to delay the passage of this important legislation any further.

Baroness McIntosh of Pickering (Con): First, I record my endless gratitude to the Minister for his consummate charm and patience, at every stage, and for taking the opportunity to speak to the gang of four, last week. He started by saying what a major development it was, and I echo him, that the Trade and Agriculture Commission is now on a statutory footing. You can imagine our disappointment that, having achieved that, reports to the House for a debate on food standards and safety in a future trade agreement will go through a body such as the Food Standards Agency, which we will not be able to hold directly to account.

Nevertheless, I welcome the assurances that my noble friend has given on the inclusion of food safety. That is something to celebrate. I join with others who have said that this will not go away and that we will revert to it, for future agreements. I am pleased to have made this point and I pay tribute to all, including the NFU, farmers, producers and consumers, who care so passionately about our food standards and levels of food safety. At this stage, I beg leave to withdraw.

Motion C2 (as an amendment to Amendment 6F) withdrawn.

Lord Grantchester (Lab): I am grateful to all who spoke to this amendment and sincerely thank the Minister for his approach. I note what the noble Baroness, Lady McIntosh, said about further measures that we would have wished to secure. The Minister, however, has been convincing enough that alternative methods to secure adequate maintenance of food standards will be sufficient. Of course, we wait to see how that proper maintenance will be achieved.

Everyone has contributed to making this as effective as possible, given the Government's resolve not to be prescribed in their future actions while they undertake to continue the non-regression of standards. We will see how all that works. Meanwhile, it has been important that so many have spoken up and I have certainly appreciated that support. However, on this occasion, I beg leave to withdraw.

Motion C1 (as an amendment to Motion C) withdrawn.

Motion C3 (as an amendment to Motion C) not moved.

Motion C agreed.

4.45 pm

Sitting suspended.

Covid-19: Road Map

Statement

The following Statement was made in the House of Commons on Monday 22 February.

"With your permission, Mr Speaker, I will make a Statement on the road map that will guide us cautiously but irreversibly towards reclaiming our freedoms, while doing all we can to protect our people against Covid. Today's measures will apply in England, but we are working closely with the devolved Administrations, who are setting out similar plans.

The threat remains substantial, with the numbers in hospital only now beginning to fall below the peak of the first wave last April, but we are able to take these steps because of the resolve of the British public and the extraordinary success of our NHS in vaccinating over 17.5 million people across the UK. The data so far suggest both vaccines are effective against the dominant strains of Covid. Public Health England has found that one dose of the Pfizer-BioNTech vaccine reduces hospitalisations and deaths by at least 75%, and early data suggest that the Oxford-AstraZeneca vaccine provides a good level of protection, although since we only started deploying this vaccine last month, at this stage the size of the effect is less certain. But no vaccine can ever be 100% effective, nor will everyone take them up, and like all viruses, Covid-19 will mutate.

As the modelling released today by the Scientific Advisory Group for Emergencies shows, we cannot escape the fact that lifting lockdown will result in more cases, more hospitalisations, and sadly more deaths. This will happen whenever lockdown is lifted, whether now or in six or nine months, because there will always be some vulnerable people who are not protected by the vaccines. There is therefore no credible route to a zero-Covid Britain or indeed a zero-Covid world, and we cannot persist indefinitely with restrictions that debilitate our economy, our physical and mental well-being, and the life chances of our children That is why it is so crucial that this road map should be cautious but also irreversible.

We are now setting out on what I hope and believe is a one-way road to freedom, and this journey is made possible by the pace of the vaccination programme. In England, everyone in the top four priority groups was successfully offered a vaccine by the middle of February. We now aim to offer a first dose to all those in groups five to nine by 15 April, and I am setting another stretching target: to offer a first dose to every adult by the end of July. As more of us are inoculated, so the protection afforded by the vaccines will gradually replace the restrictions, and today's road map sets out the principles of that transition.

The level of infection is broadly similar across England, so we will ease restrictions in all areas at the same time. The sequence will be driven by the evidence, so outdoor activity will be prioritised as the best way to restore freedoms while minimising the risk. At every

[Lord Grantchester]
stage, our decisions will be led by data not dates, and subjected to four tests: first, that the vaccine deployment programme continues successfully; second, that evidence shows vaccines are sufficiently effective in reducing hospitalisations and deaths; third, that infection rates do not risk a surge in hospitalisations, which would put unsustainable pressure on the NHS; and, fourth, that our assessment of the risks is not fundamentally changed by new variants of Covid that cause concern.

Before taking each step, we will review the data against these tests. Because it takes at least four weeks for the data to reflect the impact of relaxations in restrictions, and because we want to give the country a week's notice before each change, there will be at least five weeks between each step. The Chief Medical Officer is clear that moving any faster would mean acting before we know the impact of each step, which would increase the risk of us having to reverse course and reimpose restrictions. I will not take that risk.

Step one will happen from 8 March, by which time those in the top four priority groups will be benefiting from the increased protection they receive from their first dose of the vaccine. All the evidence shows that classrooms are the best places for our young people to be. That is why I have always said that schools would be the last to close and the first to reopen. Based on our assessment of the current data against the four tests, I can tell the House that, two weeks from today, pupils and students in all schools and further education settings can safely return to face-to-face teaching, supported by twice-weekly testing of secondary school and college pupils. Families and childcare bubbles will also be encouraged to get tested regularly. Breakfast and after-school clubs can also reopen, and other children's activities, including sport, can restart where necessary to help parents to work. Students on university courses requiring practical teaching, specialist facilities or onsite assessments will also return, but all others will need to continue learning online, and we will review the options for when they can return by the end of the Easter holidays.

From 8 March, people will also be able to meet one person from outside their household for outdoor recreation, such as a coffee on a bench or a picnic in a park, in addition to exercise, but we are advising the clinically extremely vulnerable to shield at least until the end of March. Every care-home resident will be able to nominate a named visitor, able to see them regularly, provided they are tested and wear personal protective equipment. Finally, we will amend regulations to enable a broader range of Covid-secure campaign activities for local elections on 6 May.

As part of step one, we will go further and make limited changes on 29 March, when schools go on Easter holidays. It will become possible to meet in limited numbers outdoors, where the risk is lower. So the rule of six will return outdoors, including in private gardens, and outdoor meetings of two households will also be permitted on the same basis, so that families in different circumstances can meet. Outdoor sports facilities, such as tennis and basketball courts and open-air swimming pools, will be able to reopen, and formally organised outdoor sports will resume, subject to guidance. From this point, 29 March, people will no longer be legally required to stay at home, but many lockdown restrictions will remain. People should continue to work from home where they can and minimise all travel wherever possible.

Step two will begin at least five weeks after the beginning of step one and no earlier than 12 April, with an announcement at least seven days in advance. If analysis of the latest data against the four tests requires a delay, then this and subsequent steps will also be delayed, to maintain the five-week gap.

In step two, non-essential retail will reopen, as will personal care, including hairdressers, I am glad to say, and nail salons. Indoor leisure facilities such as gyms will reopen, as will holiday lets, but only for use by individuals or household groups. We will begin to reopen our pubs and restaurants outdoors; honourable Members will be relieved that there will be no curfew, and the Scotch egg debate will be over because there will be no requirement for alcohol to be accompanied by a substantial meal. Zoos, theme parks and drive-in cinemas will reopen, as will public libraries and community centres.

Step three will begin no earlier than 17 May. Provided that the data satisfies the four tests, most restrictions on meetings outdoors will be lifted, subject to a limit of 30, and this is the point when you will be able to see your friends and family indoors, subject to the rule of six or the meeting of two households. We will also reopen pubs and restaurants indoors, along with cinemas and children's play areas, hotels, hostels, and bed and breakfasts. Theatres and concert halls will reopen their doors, and the turnstiles of our sports stadiums will once again rotate, subject in all cases to capacity limits depending on the size of the venue. We will pilot larger events using enhanced testing, with the ambition of further easing restrictions in the next step.

Step four will begin no earlier than 21 June. With appropriate mitigations, we will aim to remove all legal limits on social contact and on weddings and other life events. We will reopen everything up to and including nightclubs, and enable large events such as theatre performances above the limits of step three, potentially using testing to reduce the risk of infection.

Our journey back towards normality will be subject to resolving a number of key questions, and to do this we will conduct four reviews. One will assess how long we need to maintain social distancing and face masks. This will also inform guidance on working from home, which should continue wherever possible until this review is complete, and it will be critical in determining how Parliament can safely return in a way that I know honourable Members would wish.

A second review will consider the resumption of international travel, which is vital for many businesses that have been hardest hit, including retail, hospitality, tourism and aviation. A successor to the global travel taskforce will report by 12 April so that people can plan for the summer. The third review will consider the potential role of Covid status certification in helping venues to open safely, but be mindful of the many concerns surrounding exclusion, discrimination and privacy. The fourth review will look at the safe return of major events.

As we proceed through these steps, we will benefit from the combined protection of our vaccines and the continued expansion of rapid testing. We will extend the provision of free test kits for workplaces until the end of June, and families, small businesses and the self-employed can collect those tests from local testing sites.

In view of these cautious but, I hope, irreversible changes, people may be concerned about what they mean for the various support packages for livelihoods, for people and for the economy, so I want to assure the House that we will not pull the rug out. For the duration of the pandemic, the Government will continue to do whatever it takes to protect jobs and livelihoods across the UK, and my right honourable friend the Chancellor will set out further details in the Budget next Wednesday.

Finally, we must remain alert to the constant mutations of the virus. Next month we will publish an updated plan for responding to local outbreaks with a range of measures to address variants of concern, including surge PCR testing and enhanced contact tracing. We cannot, I am afraid, rule out reimposing restrictions at local or regional level if evidence suggests that they are necessary to contain or suppress a new variant which escapes the vaccines.

I know there will be many people who will be worried that we are being too ambitious and that it is arrogant to impose any kind of plan upon a virus. I agree that we must always be humble in the face of nature and we must be cautious, but I also believe that the vaccination programme has dramatically changed the odds in our favour, and it is on that basis that we can now proceed.

Of course, there will be others who believe that we could go faster on the basis of the vaccination programme. I understand their feelings, and I sympathise very much with the exhaustion and the stress that people and businesses are experiencing after so long in lockdown. But to them all, I say that today the end really is in sight and a wretched year will give way to a spring and a summer that will be very different and incomparably better than the picture we see around us today. In that spirit, I commend this Statement to the House."

4.51 pm

Baroness Smith of Basildon (Lab) [V]: My Lords, I certainly appreciate the different tone and style of this Statement from previous ones from the Prime Minister, so I am sorry that it is not being repeated in your Lordships' House. I hope that once we return to more traditional ways of working we can also return to hearing Statements, as well as responses.

We know that nobody likes Covid lockdowns and restrictions, but not liking is very different from knowing when it is essential. I have said before that far worse than lockdowns are repeated lockdowns where infections rise because we have been too slow to start and too quick to get out. Yesterday, the Prime Minister started his Statement—his third announcing restrictions coming to an end—with two key words, describing the road map back to living and working more normally as being undertaken "cautiously" and "irreversibly". That is crucial, because we need this to be the last lockdown.

As we emerge from the restrictions that have made life so difficult, our whole country needs to have confidence in the process, so Mr Johnson's assurances that this will be led by facts and science, with four stages, not aiming for specific dates but moving forward as the evidence allows, is welcome. We know that there will be those, perhaps some of them taking part in today's debate, who will press the noble Baroness the Leader that each stage must be quicker and less cautious. I urge her and the Prime Minister to resist. The change in approach to ensure that we move only forward and not back means that we can now be optimistic, just cautiously and carefully so.

We must also recognise the amazing efforts that have led to such a successful vaccine rollout. The brilliant endeavours of scientists, the impressive leadership of our NHS and the support of volunteers have made this a game-changer. Without that rollout, although I speak as someone who was not yet had their first jab, we would not be able to have this road map back to normality, but I seek further clarification from the noble Baroness on some key issues.

On schools, a 10 year-old child will have lost about a fifth of their school time because of this pandemic. The educational, emotional and physical toll is significant, so we need pupils, parents, teachers and other staff to have confidence in the way this is being done, and that it addresses their concerns. Yesterday, Keir Starmer highlighted the problem that beset many schools and children in the autumn, when whole classes or year groups found themselves having to isolate in response to individual cases. Given the knock-on impact such developments have had on family members, including the additional pressures on working parents, do the Government consider that it now makes sense, with all children about to go back to school, to deliver a rapid rollout of vaccines to all school staff? Could the noble Baroness also say something about how the testing regime will work for those working in schools?

The test, trace and isolate system has been the Achilles heel of pandemic planning. The world-beating system we were promised never emerged, with too few people being contacted and inadequate support for those who need to isolate. The noble Baroness will be aware of the recent SAGE report that says that most people do not isolate when they should and that many people avoid even going for tests in case they are told not to work. This holds back the recovery for all of us, so I hope she can assure us that a review of self-isolation payments will take place in the light of the Prime Minister's Statement.

On a related point, one in four UK households does not have a car, and as restrictions are lifted many people will have to use public transport. Given the lack of guidance in the Statement and the accompanying documents, could the noble Baroness say more about plans to minimise the risk to drivers and other transport workers?

On businesses and jobs, the Statement provides a degree of certainty for many businesses about their route back. For some that will be April, but for others not until mid-June at the earliest. Pubs and restaurants will not be able to serve customers indoors until 17 May. That is more than a month after when they

[Baroness Smith of Basildon]
will have to start paying business rates and more than two weeks after furlough, which covers 1 million of their staff, ends. Surely support for this sector should be extended in line with the Prime Minister's timetable. I am sure the noble Baroness will also understand the need for reassurances for those in the food and farming sectors who are reliant on seasonal workers for the picking and harvesting of essential and popular crops.

Next week's Spring Budget is an opportunity to develop confidence in life after lockdown and the Prime Minister's announcements need to be co-ordinated with the necessary support to make the strategy work. I understand that the noble Baroness might want to kick any answers on the economy to beyond the Budget, but we need reassurances today that these issues will be fully considered. I would include in that consideration of retraining those workers aged over 50 who have been affected so that they are not forced into early retirement. Please address the serious problems of the Kickstart Scheme, which is currently helping only one in every 100 young people trapped in long-term unemployment. And a real plea: can the Government cancel the planned cut to universal credit, as it will have a dire impact on struggling households?

Also, can the Government look again at sectoral deals, including proper support for the vast army of freelancers across our creative sectors? I suspect the noble Baroness might not have read the *Guardian* report last weekend that many of those whose skilled work behind the scenes is essential to live events are finding themselves becoming homeless and reliant on food banks.

I have just one additional point on that road map. Given the emphasis on the responsibilities of local authorities, which include enforcement, advising businesses and testing, I hope the Chancellor will be forthcoming with additional support for councils.

One aspect that has not been reported on quite so much is the impact on court cases, with some serious criminal cases facing possible delays of up to four years. Could the noble Baroness explain—either today or I am happy for her to write to me—why the Government are still failing to act to ensure the rapid rollout of more Nightingale courts and lateral flow testing at all courts?

But, looking forward, we all need this plan to work. There is obviously a sense of déjà vu when talking about lifting restrictions—as I said, this is the third Statement the Prime Minister has made on that—but this time there are two game-changers: first and very obviously, the extraordinary efforts making the vaccine rollout so successful, but also the Prime Minister's different approach in learning, we hope, from past mistakes in planning this route map and using the evidence to chart a cautious advance. I am generally optimistic that we are turning a corner, but we need to remind ourselves that infections today are still as high as they were in the autumn and we need to be alert to ensure we do not at any point find ourselves falling back.

Could I ask the noble Baroness about two House-related matters? Would she agree that your Lordships' House might benefit from a full and proper debate on the lessons already learned over the past year? That would also be an opportunity for the Government to respond to the December 2020 report of the Joint Committee on the National Security Strategy and its concerns about the profound shortcomings in the UK's biosecurity and national security systems. As so many experts have said, we cannot treat this pandemic as an isolated incident, and we would want to build on the knowledge and expertise now required to inform our response if needed in the future. Does she agree that we must start planning our own route map to return to more normal ways of working in your Lordships' House?

As we proceed "cautiously" and "irreversibly", to quote the Prime Minister, we all hope that this is truly the final lockdown.

Lord Newby (LD): My Lords, the Government's proposals for moving out of lockdown are being made possible by the extraordinarily impressive vaccination programme. As someone who has now had their first vaccination, I wish to echo the tribute given by the noble Baroness, Lady Smith, to those who have developed the vaccines at breakneck speed, to those who manufacture and distribute them and to NHS staff and volunteers who are administering them so efficiently and cheerfully.

The Prime Minister says that the measures are being driven by data rather than dates, yet very specific dates are being set for each stage of the easing. The Covid response document says:

"The indicative … dates in the roadmap are all contingent on the data and subject to change."

The implication is that change might be in both directions and that, if the data are better than expected, either the dates to trigger each step might change or the activities that are allowed in each step might change. Is this correct?

It is obviously welcome to parents and children alike that schools are to reopen soon, but bringing the whole school back in one go, particularly when secondary schools will be required to do very regular testing, seems a very big ask. Why did the Government reject the approach adopted by my colleague Kirsty Williams in Wales, allowing some classes to come back this week but phasing the return to allow it to happen more smoothly?

On local elections, the document says that the Government will

"enable a broader range of campaign-related activity from 8 March".

What does this mean? Up to this point, the Government have, without any medical justification, sought to ban parties from even delivering leaflets. When will we know what will now be allowed?

The resumption of care home visits is very welcome. But if the care home patient has been vaccinated and all the visitors are required to take a rapid flow test, why are they also required to wear PPE, given that face masks will significantly reduce the quality of many visits, especially for those with dementia?

From 29 March, six people or two households will be able to meet outdoors, but we are told to "minimise travel" until step 3 begins on 17 May. What does this mean for the vast majority of possible family and other reunions, which can take place only if people travel by car or public transport to meet each other?

For example, can I and my wife travel 50 miles to have a socially distanced walk with another household in our family over Easter, as we would very much like to do, or does the minimising travel rule mean that the Government are telling us not to? This is a straightforward, practical question, to which millions of households now need a clear answer.

On how we operate in Parliament, the Statement says that the Government will conduct a review of social distancing that will

"be critical in determining how Parliament can safely return in a way that I know honourable Members would wish."

Can the noble Baroness give any indication on the timing of this review? The document accompanying the Statement simply says that this will happen before step 4. Does that mean that the Government believe that the earliest that social distancing rules in the Chamber might be relaxed is 21 June?

On providing support for those hit financially by the pandemic, it seems perverse not to say now what continuing support will be given. People are asked to wait until the Budget, but surely the Government could have outlined the principal measures that they intend to take now to avoid another week of sleepless nights for many business owners in the retail, arts and hospitality sectors. For the Prime Minister to say that the Government are not going to "pull the rug out" from under them is simply not good enough.

Finally, on track and trace, the evidence remains that a large proportion of those told to self-isolate do not do so because of financial necessity. The £500 support scheme is clearly failing in its purpose, yet the Statement and supporting document propose no remedy. Will the Government now commit to repaying lost earnings up to a sensible limit to enable the isolate element of test, trace and isolate to work effectively for the first time? If not, why on earth not?

The Statement and the growing success of the vaccination programme give the whole country hope for an eventual return to something approaching normality. Despite the many specific questions and doubts that we might have on the details of the provisions and the timetable, we can certainly share the Government's hope that by late June a large degree of normality can indeed be resumed.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): I thank the noble Baroness and the noble Lord for their comments and for their broad welcome of the road map. I will now attempt to answer some of their questions.

The noble Baroness asked about vaccinating teachers. As we have said, we have kept this under review. As both the noble Baroness and the noble Lord will know, the JCVI advises that the immediate priority for the vaccination programme should be to prevent deaths and to protect health and care staff, which is where the prioritisation has been made. Based on the latest evidence, PHE has advised that the risks to education staff are similar to those for most other occupations and that occupational risk is not the only factor driving increased infections and the risk of mortality for certain groups. I assure the noble Baroness that work has been done in this area. The JCVI will look again at the prioritisation after phase 1 and we await its advice on that.

Both the noble Lord and the noble Baroness asked broader questions on education. In response to the noble Lord, I think that we all agree that there is clear evidence that the extended time without face-to-face teaching has been extremely detrimental for young people. We believe that with the vaccine rollout, and on the basis of our assessment of the current data against the four tests, all pupils and students in all schools and further education settings can safely return to face-to-face education from 8 March. That is why we have made that decision and why it is the first big step that we are taking. Schools have already worked extremely hard to implement a range of protective measures; indeed, since January, schools have conducted 3 million rapid tests. Of course, schools have still been able to take the children of key workers and others, so they have been able to start this regular testing, admittedly with fewer pupils, and they have processes in place.

I say to the noble Baroness that, in addition to that testing and the already established rapid testing regime, we will introduce twice-weekly testing of secondary school and college pupils, initially on site and then at home. Teachers in primary and secondary schools and further education will have twice-weekly asymptomatic testing and we will offer all schoolchildren's households, including members of their support and childcare bubbles, and those who work in the proximity of schoolchildren free twice-weekly tests. Noble Lords will also be aware that we are temporarily recommending the use of face coverings in classrooms unless the two-metre distancing rule can be maintained. As we have said, schools were always safe and we believe that all these measures will help with the interaction and contact issue that led us to have to close schools before.

The noble Lord, Lord Newby, asked about the dates in the road map. He is absolutely right that we will review the data against the tests before taking each step. Because it takes four weeks for the data to reflect the impact of the changes and we want to give a week's notice, there will be at least five weeks between each step. The Chief Medical Officer has been clear that moving any faster before we know the impact of each step could increase the risks, so we intend to keep five weeks between each step at a minimum.

Both the noble Lord and the noble Baroness asked about the £500 test and trace payment for those on low incomes who have to self-isolate. We are continuing this scheme and, in this announcement, have extended its eligibility to the parents of children who are isolating.

The noble Baroness asked more broadly about economic support for a range of groups and businesses. I reiterate what the Prime Minister said yesterday: we are committed to doing whatever it takes to support the country through Covid. Details of the next phase of the plan for jobs and the additional support for businesses and individuals will be provided in the Budget next week. The announcements at the Budget will reflect the steps set out in this road map, ensuring that as restrictions ease and the economy gradually and safely reopens, the level of support for businesses and individuals is carefully tailored to reflect the changing circumstances. I remind noble Lords that we have put in place one of the world's most comprehensive economic responses to the pandemic, so our support will continue.

[Baroness Evans of Bowes Park]

The noble Lord asked about the May elections. He will be aware that we published a delivery plan setting out how polls can be delivered in a Covid-secure way. We will publish further guidance shortly for candidates, their agents and political parties on campaigning during these elections.

The noble Lord also asked about social care. He said, rightly, that from 8 March care home residents will be allowed close contact indoors with one named visitor—something that I know is good news for everyone. He asked about the wearing of PPE. As he rightly said, with the vaccination programme having been rolled out in care homes, every resident in a care home has been offered a vaccination but, balancing the risks, we still believe that the right approach is to be cautious. At step 2 of the road map, we will take a further decision on extending the number of visitors. We all appreciate the noble Lord's comments, so we will obviously look at extending contact and so on in care homes at every step of the way.

I will have to write to the noble Baroness about her question on the action we are taking in relation to courts. I entirely agree with her suggestion that we need to develop a road map for returning to normality in Parliament. Through the commission and the usual channels, we will work extremely hard with the administration to begin developing that immediately, while of course keeping in step with the situation more broadly.

The noble Lord asked about the review of social distancing. He is right that this will be completed ahead of step 4—that is, before 21 June. However, in the light of the increased number of vaccinations being delivered, we will also talk to PHE about whether further mitigations can be used—for instance, in the Chamber—to allow us to move forward before then. Obviously there might be other things that we can use, such as the one-and-a-half-metre rule, which we have not really been able to implement here, and face masks. I cannot make any promises but, along with the noble Lord and, I am sure, the rest of the commission, we will talk to PHE about what we can do.

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

5.11 pm

Lord Haselhurst (Con) [V]: My Lords, although the Government are, in my opinion, absolutely right to ease lockdown restrictions cautiously, experience suggests that some people might think that it is safe to go one or more steps further than they should under the road map. Therefore, is it not vital that the vaccination programme continues to expand and accelerate so that more people are likely to recognise that the reward for their patience in keeping closely within the current restrictions will mean, for them, a normality that is truly safe?

Baroness Evans of Bowes Park (Con): My noble friend is right and, like the noble Lord and the noble Baroness, I pay tribute to everybody involved in this fantastic effort. As my noble friend will know, more than 17.7 million people across the UK have had their first dose. Our target remains to offer the first nine priority groups, including everyone over 50, a vaccination by 15 April and all adults over the age of 18 a vaccination by 31 July. It is a fantastic target and we are confident that we will meet it.

Lord Houghton of Richmond (CB): I draw the House's attention to my relevant interests in the register, both as Constable of the Tower of London and as a trustee of Historic Royal Palaces. I welcome the publication of the road map out of lockdown, but it will appear to many completely counterintuitive that the nation's museums, art galleries and heritage sites represent both a greater health risk and a lesser social benefit than those venues termed "non-essential retail". Can the Government please publish the scientific data on which that judgment is based? As a reinforcing question, if the early data were to show signs of improvement, might the Government be prepared to revisit that decision so that, come the early May bank holiday, the nation will have cultural alternatives to outdoor drinking and trips to the zoo?

Baroness Evans of Bowes Park (Con): I can certainly assure the noble and gallant Lord that the design of the road map has been informed by the latest scientific evidence and is a balance between the societal and economic impact of lockdowns and restrictions and the risks posed by the virus. As I said in response to a question from the noble Lord, we will make an assessment against the four tests at every point of the data, but there will be five weeks between each step.

Lord Sikka (Lab) [V]: My Lords, last week's High Court judgment concluded that

"the secretary of state acted unlawfully by failing to comply with the transparency policy."

What lessons have the Government learned from the court judgment, and when will a Minister come to the House to answer specific questions about it?

Baroness Evans of Bowes Park (Con): We are committed to publishing government contracts as quickly as possible. As my right honourable friend the Secretary of State said, the reason that some contracts were published late at the height of the pandemic was obviously that the team were working flat out, side by side with the public sector, to procure enormous amounts of goods and expertise with extreme urgency. I believe that there will be a UQ about this issue in the Commons tomorrow, and I assume your Lordships will want to take it.

Baroness Pidding (Con) [V]: My Lords, I very much welcome the optimistic tone of this road map. However, my concern is that, with the publishing of "not before" dates, we are going to become transfixed by dates rather than by the data. I have two questions. First, on the subject of the hospitality industry, which is vital to our economy, livelihoods and the nation's general well-being, can my noble friend the Leader advise what evidence—or should I say data—can be found that proves that pubs and restaurants, which have worked so hard to provide Covid-safe environments,

have been vectors for the spread of the virus? Secondly, does she agree that it is critical that we remember that the vaccination programme is to stem hospitalisation from severe illness and to prevent death? It is widely accepted that mild disease, much like the flu virus, will continue to be prevalent at a level that we need to co-exist with.

Baroness Evans of Bowes Park (Con): I am sure that my noble friend will agree that the immediate priority was to open schools; we have all agreed to that. This is why the first step is the reopening of schools on 8 March. As I hope I have made clear, we then need to look at the data on what happens and have a further week, which is why the beginnings of outdoor hospitality come after that.

Lord Caine (Con): My Lords, I draw attention to my entries in the register. I very much welcome the plan for the return of spectators to sporting venues, which is particularly important for my own sport, rugby league, given that the season begins in March and culminates with the Rugby League World Cup in the autumn. Can my noble friend the Lord Privy Seal confirm that it is the Government's ambition that, well before the beginning of that tournament—I hope by late June—stadiums will be operating at full capacity? Does she agree that delivering a successful Rugby League World Cup, which is a manifesto commitment, will play an important role in post-pandemic economic recovery and levelling up, particularly across the north of England?

Baroness Evans of Bowes Park (Con): I thank my noble friend for his question and continued support of rugby league, which I know is very dear to his heart. As he will know, DCMS and BEIS have been working with representatives from industry and civil society to explore when and how events with larger crowd sizes and less social distancing will be able to return. This is why, over the spring, we will run a scientific events research programme, which will include a series of pilots that will start in April. We will then bring the findings from across different sectors and settings to determine a consistent approach. We hope that the outcome of the work is that we will be able to lift restrictions on these events and sectors, as he said, as part of step 4, which will be on 22 June at the earliest.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): I apologise for missing the noble Baroness, Lady Brinton, whom I now call.

Baroness Brinton (LD) [V]: My Lords, I return to my noble friend Lord Newby's question about self-isolation. Australia and New Zealand give a straightforward grant, set at minimum wage, for those self-isolating and quarantining, with no means testing. Their results have been outstanding, with a very high compliance level; people do not have to choose between putting food on their tables and isolating. Given our low levels of compliance, should not the Government move to a non-means-tested grant, as a tool to succeed in lifting lockdown, as a matter of urgency?

Baroness Evans of Bowes Park (Con): As I said, the £500 support payment has been extended, so parents of children who are isolating are now eligible for it. In addition to that, we are increasing, to £20 million a month, the funding available to local authorities to make discretionary payments, and that money is intended to support those who fall outside the scope of the main payment but still face hardship. As I have said, obviously we have the Budget next week, where there will be further detail in the round about the economic support we will provide going forward.

Baroness Wheatcroft (CB) [V]: My Lords, I draw attention to my interests in the register as I am chairman of the Association of Leading Visitor Attractions. I would like to echo the words of the noble and gallant Lord, Lord Houghton. It would appear that visitor attractions have not been responsible for any cases of Covid-19, yet in step 2 non-essential shops will be allowed to open and visitor attractions will only be allowed to open in step 3. Will the Government publish the data on why this is the case, since it has been—[*Connection lost.*]

Baroness Evans of Bowes Park (Con): I am happy to say that outdoor attractions can open in step 2 and, as I have said, we have been looking at the economic data, social data, vaccination data and everything in the round. That is how we have come to the conclusions in the road map.

Lord Liddle (Lab): My Lords, I think we are all feeling very optimistic as a result of the success of the wonderful vaccine programme. I was rather taken aback to read reports of the modelling that has been done on a reasonable assessment of vaccination and social distancing measures over the four months to June in the *Financial Times* this morning, which suggested there might be as many as 30,000 further deaths. This brings home to me that we are never going to eliminate Covid-19 and we need to start a public debate about what level of mortality is acceptable in dealing with this disease. We also need to concentrate on ensuring that we have a much more effective test, trace and isolate system in place for further outbreaks—with more reliance on tracing at the local level, where it works, and effective financial support for people who cannot afford to isolate.

Baroness Evans of Bowes Park (Con): I thank the noble Lord. He makes some very important comments. He is right that, even once everyone is vaccinated, we are going to need to learn to live with the disease and acknowledge that there will be further cases, hospitalisations and deaths. He rightly points out that the modelling released by SAGE shows that we cannot escape the fact that lifting lockdown, no matter when we do it, will result in more cases. He is right that we need to have discussions on all those issues. In relation to his points about outbreaks, he is absolutely right—for instance, when a new variant of concern was found recently in Middlesbrough, Walsall and Hampshire, we used a range of measures including enhanced contract tracing, surge testing and genomic sequencing. We are going to have to bear down hard on new outbreaks. I reassure him we will publish an updated Covid-19 contain framework next month. It will set out how national and local partners will continue to work with the public at a local level to prevent, contain and manage outbreaks in exactly the way he says.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): The noble Baroness, Lady Stroud, has scratched, so I call the noble Baroness, Lady Doocey.

Baroness Doocey (LD): My Lords, self-catering accommodation can open from 12 April, but only if there are no shared facilities. Camping grounds cannot open because they have shared toilet blocks. Pubs can also open from 12 April, for those people sitting outside, and those people can use the pub's toilets. Could the Leader explain why it is considered safe to use a shared toilet in a pub but not in a camping site?

Baroness Evans of Bowes Park (Con): No, I am afraid I cannot.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, could I come back to a question asked by my noble friend Lady Smith? At the SAGE meeting on 4 February, it was identified that people who work in occupations which involve a higher degree of physical proximity tend to have a higher Covid-19 mortality rate. We know that many of those people do not have access to work-place sick pay and that 20,000 people per day are not self-isolating because they cannot afford not to work. Will the Government agree that those who do not have access to occupational sick pay should automatically receive the £500 test and trace support payment?

Baroness Evans of Bowes Park (Con): I think that I have said everything I can say on the support payment by explaining where we have extended eligibility. On the noble Lord's question about occupational risk, as I said in response to the noble Baroness, it is not the only factor driving increased infection and mortality in certain groups. The evidence shows that a range of socioeconomic and geographical factors, such as occupational exposure, population density, household composition and pre-existing health conditions, contribute to the higher infection and mortality rates for some groups. In making decisions on phase 2 of the rollout, we will balance these factors alongside occupational risk.

Lord Moynihan (Con) [V]: My Lords, I congratulate the Government on prioritising the return of children to sport, building on the *Daily Telegraph*'s campaign to keep kids active, and recognising that the country must emerge from this crisis more engaged with an active lifestyle and more involved in sport and recreation than ever before, since these are vital mental, physical and preventive healthcare objectives. Will my noble friend the Leader ask her colleagues whether, if the lockdown and vaccinations continue to deliver anticipated results, socially distanced two-ball golf games and tennis matches can be reopened to the public, as they were many weeks ago in Scotland, without waiting another five weeks in England for their freedom to restart?

Baroness Evans of Bowes Park (Con): I am sure that my colleagues will have heard my noble friend's question. I will certainly pass it on to relevant colleagues in DCMS.

Lord Greaves (LD): My Lords, the Prime Minister has accepted that we are not going to get rid of Covid and that it is going to be present at some level and endemic at least for quite a long time. Will it not be the case that, when we get the virus down to a level that we think is acceptable, outbreaks will be sporadic and localised? Is that not even more reason for putting testing, tracing, tracking back, stamping out and imposing lockdowns on individuals—self-isolating, if you like—in the hands of people who know what they are doing and who have the local knowledge and the professional expertise; that is, the environmental and public health officers of local authorities and the local health staff connected with GP surgeries?

Baroness Evans of Bowes Park (Con): I agree with the noble Lord, and I hope that I gave some indication of that in my answer to the noble Lord, Lord Liddle. As the Prime Minister said, we will take a highly precautionary approach, acting hard and fast to suppress worrying local outbreaks—the noble Lord is absolutely right: there will be local outbreaks. I referred to Middlesbrough and Walsall, where local action of exactly the sort described by the noble Lord has been taken. As I said, we will publish the updated Covid contain framework next month to bring all this together. That will be another way in which an enhanced toolkit of measures to address various concerns at a local level will be set out.

Lord Truscott (Non-Afl) [V]: My Lords, I welcome the road map but wonder whether Her Majesty's Government will consider loosening the hospital admissions criteria for those suffering from Covid-19. The UK has one of the highest Covid death rates in the world, and survival rates are much higher in countries such as Germany, partly because they admit people to hospital earlier. Will Her Majesty's Government also learn lessons from countries such as Taiwan, which, although around a third the size of the UK, has suffered just nine tragic deaths compared to more than 120,000 here?

Baroness Evans of Bowes Park (Con): I am sure that the noble Lord will agree that the NHS and its staff have done a fantastic job in treating patients with Covid, of which there have been more than 250,000 in the past year. I am sure that the NHS regularly learns from experience and looks to deliver the best care it can and will continue to do so.

Lord Dobbs (Con) [V]: I wonder if I might ask my noble friend about vaccine passports. For months now, Ministers have pooh-poohed the idea of such passports; it is not a British thing to do, they have said. Yet now we hear that Michael Gove is heading a review into the matter and the Prime Minister has said today that it is a very difficult issue, which, of course, it is. As it is a matter of fiendishly conflicting principles, not least that of personal freedom on the one hand and everyone's responsibility to the wider community on the other, will my noble friend accept that it is not simply the Executive who should review this cat's cradle of conflicting responsibilities and interests but the two Houses of Parliament too? Will she ensure that this House is given an early opportunity to debate this issue? It would be so much better if we could contribute before any edict is handed down from on high.

Baroness Evans of Bowes Park (Con): My noble friend is right. The review will assess the extent to which certification might potentially be effective and whether it could be used, and will certainly consider the ethical, equalities, privacy, legal and operational aspects of any such approach. The review's conclusion will be towards step 4, so there is plenty of time for noble Lords to make their views heard within the House and directly to Ministers involved—as my noble friend says—in overseeing the review.

Lord Addington (LD): My Lords, does the Minister agree that there is a degree of potential confusion in the attitudes towards childhood sport? We say that schools will have some activity, then the clubs. Clubs deliver a lot of school-age sport at the amateur level, and there has been a history of encouraging clubs into schools to deliver that sport with better training facilities. Can we have a more coherent position on what happens here? I refer to the comment about who can and cannot share a loo or a changing room. There must be a more coherent position here to make sure that something which has been lacking from people's lives and which is said to be a benefit is brought back in.

Baroness Evans of Bowes Park (Con): I thank the noble Lord. I believe that by the end of March all organised outdoor sport for children, and all outdoor children's activities, will be allowed under the road map. Obviously from 8 March wraparound care, including sport for children, will be allowed. So it is one of the early things that we are looking at, and one of the first things on the road map that will be back open in the first step, for exactly the reasons that he states—because of its importance to children's mental and physical well-being.

Lord Robathan (Con): I congratulate all those involved in the outstanding success of the development of the vaccine and the vaccination programme. This comes from the Prime Minister downwards, especially my right honourable friend Nadhim Zahawi, and Kate Bingham, who did such sterling work, pro bono, for seven months up to the end of last year and, sadly, was vociferously attacked by both main opposition parties.

Since by early April we will have vaccinated all the most vulnerable who want the vaccine—the over-50s and everyone in the first nine at-risk groups, who account for 99% of deaths—and it should be effective by the end of that month, why must we wait nearly two further months to lift all restrictions? That is a third of a year from here.

Baroness Evans of Bowes Park (Con): I join my noble friend in thanking those who he named, who have been so instrumental both behind the vaccines and in the rollout of the programme. I go back to my response to a previous question: the modelling released by SAGE shows that we cannot escape the fact that, despite all that my noble friend says, which is absolutely right, lifting the lockdown, no matter when we do it, will result in more cases, more hospitalisations and, sadly, more deaths. Moving too fast too soon risks a resurgence in infections. We have all said—and this has come across strongly during all your Lordships' contributions today—that we want to keep moving forward, not backwards. This is a cautious path, but one that we believe will get us to where we want to be steadily and safely, and ensure that, when we take a step forward, we do not have to take a step back, as, sadly, we have had to do previously.

Lord Cormack (Con) [V]: My Lords, during the lockdown last autumn, large churches and cathedrals were able to have services with a choir, suitably distanced of course. Spiritual health is very important. We are approaching the most significant week in the Christian year, Holy Week. In Lincoln, where I live, we have a great and glorious cathedral, we can have services and we can have a choir, but we cannot have them together. It is ludicrous. Can the Minister have this one looked into? It would be very sad indeed if during Holy Week we could have either a congregation or a choir, but not both together.

Baroness Evans of Bowes Park (Con): I can certainly say to my noble friend that we will continue to work with the Places of Worship Taskforce to ensure that advice is available for religious communities and faith leaders so we can enable the safe opening of places of worship as we move forward through the steps in the road map.

Lord Farmer (Con) [V]: My Lords, our internationally harsh lockdown is driving mental ill health and unravelling our social fabric. Accordingly, should not parity of esteem between physical and mental health dictate that more than two SAGE advisers are mental health experts? Also, will the Government persist with the dispiriting law of the Medes and Persians, which permits the goalposts to be moved only in a more restrictive direction, even if the four indicators drop off a metaphorical cliff?

Baroness Evans of Bowes Park (Con): I am afraid I do not agree with my noble friend on his last point, but I certainly I agree with him on the importance of support for mental health, and he will know that expert participation in SAGE changes for each meeting. What I hope will reassure him is that in March, we will be publishing our cross-government action plan to prevent, mitigate and respond to the impact of Covid on mental health and well-being. We have already announced that the NHS will receive an extra £500 million to address waiting times and enhance support for mental health services. During the pandemic, we rolled out 24/7, all-age urgent mental care helplines across the country, provided more than £100 million to the voluntary sector and, recently, appointed a youth mental health ambassador to build on our support for young people. I hope this range of investment and initiatives shows the noble Lord how important we consider this issue.

Lord Balfe (Con): Could I point out to the Leader that my noble friend Lord Dobbs asked whether time could be made available for a debate on the matter of vaccine passports? While many of us accept that people should have the freedom not to be vaccinated, those of us who have been vaccinated believe we should have the freedom not to have to travel with people who have decided not to be vaccinated. There are some complex issues that need looking at.

[Lord Balfe]

I will make a second point. Everything is down to Covid these days, but there is a huge backlog in the National Health Service building up literally every day. When are we going to see a White Paper on how to deal with that?

Baroness Evans of Bowes Park (Con): My noble friend is right, but we should recognise that hospitals and staff have gone to extraordinary lengths to deliver non-Covid care and treatment, from online consultations to chemo buses and Covid-free surgical hubs. We have seen the benefit of these, with, for instance, almost 390,000 people being treated for cancer between March and November last year. But he is right: waiting times have increased. We have allocated £1 billion to help the NHS recover elective care backlogs. This will be enough funding to enable hospitals to carry out up to 1 million extra checks, scans and additional operations and procedures. We are well aware of the issue he raises. I thank everyone in the NHS for all the work they are doing, but we understand that more work needs to be done.

Lord Moylan (Con): My Lords, as various noble Lords have said, the Government's plan accepts that Covid is going to remain endemic in the population for many years to come. In fact, the Prime Minister stated in emphatic and, in my view, realistic terms that there is no credible path to a zero-Covid Britain. In that light, does my noble friend agree that the right response is for the UK to redouble its already world-beating efforts to develop and discover new and effective cures and treatments for serious Covid cases?

Baroness Evans of Bowes Park (Con): I entirely agree with my noble friend. That is absolutely right and we have been at the forefront of that. He may be interested to know that we have also established a new partnership with vaccine manufacturer CureVac, which means that we are ready to build on our world-leading genomics expertise to develop new vaccines quickly if new variants appear. We have already placed an initial order for 50 million CureVac doses, in addition to the portfolio of more than 400 million doses that we have already secured. We believe that this will help ensure the ability rapidly to develop and deploy vaccines against any new variant or similar new diseases in the future.

Lord Dodds of Duncairn (DUP) [V]: My Lords, getting children back into schools for face-to-face teaching is critical and should be happening as quickly as possible. Can the Leader of the House say whether there has been contact by the Chief Medical Officer of England with the chief medical officers of the other countries of the United Kingdom to share his advice on that issue?

Baroness Evans of Bowes Park (Con): I assure the noble Lord that the chief medical officers speak regularly on a whole range of subjects, including this one. I think the Chief Medical Officer for England mentioned this in the press conference yesterday. Certainly, there are ongoing discussions and the chief medical officers work extremely closely together on issues such as this.

Lord Lancaster of Kimbolton (Con): The relaxation of the rules to allow pubs to use their outside space from 12 April will be a boost to the economy and to the mental health of the nation. Alas, 60% of pubs do not have any outside space, but they are the lifeblood of many communities. Will pubs continue to have financial support if they do not have outside space?

Baroness Evans of Bowes Park (Con): As I have said in response to a number of other questions, we have the Budget next week. We have been clear that we will provide support to the country through Covid, and our actions speak as much as our words. Details of the next phase of the plan for jobs and support for businesses will be announced. I can assure my noble friend that the announcements in the Budget will reflect the steps in the road map, so that businesses will be supported as we move through the steps. Obviously, some businesses will perhaps be able to welcome people in sooner than others. That is clear from our discussions today.

Baroness McIntosh of Pickering (Con): My Lords, the aviation sector has taken a bigger hit than even the hospitality sector and I applaud the help that the Government have given to hospitality. IATA is preparing a Covid travel pass that is expected to be operational within weeks. Is that something that the Government would encourage those of us who wish to travel within Europe to use, once it is available?

Baroness Evans of Bowes Park (Con): I can say to my noble friend that there will be a review on international travel. The Department for Transport will be leading a successor to the Global Travel Taskforce, working with the industry to develop a framework that can facilitate greater travel while still managing the risk from imported cases. That taskforce will report on 12 April with recommendations aimed at facilitating travel as soon as possible, although not before 17 May, while still managing the risk from imported cases and variants.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, the time allocated for Back-Bench questions has elapsed and we have been able to get through them all. There is no need to adjourn the House. We shall take one minute to refresh the seating and get the Minister in and then move straight onto the next Motion.

Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2021

Motion to Approve

5.44 pm

Moved by ***Lord Wolfson of Tredegar***

That the draft Regulations laid before the House on 18 January be approved.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Wolfson of Tredegar) (Con): My Lords, this statutory instrument amends the Judicial Pensions (Fee-Paid Judges) Regulations 2017, which I will refer

to as the FPJPS regulations, which established the fee-paid judicial pension scheme 2017, which I will refer to as the FPJPS. This statutory instrument broadly has three purposes: the first is to add eligible fee-paid judicial offices to the FPJPS regulations; the second is to make amendments consequential to adding these offices to the FPJPS regulations; and the third is to make various further amendments to those regulations.

Dealing with those in turn, the main purpose of this statutory instrument is to add further eligible judicial offices to the FPJPS regulations. To give the House an example, Part 2 of the statutory instrument adds the office of legal chair of the Competition Appeal Tribunal to the schedule of offices in the FPJPS. Until that is done, individuals holding these offices cannot be members of the FPJPS and cannot, therefore, accrue pension benefits under it, even though they would otherwise meet the eligibility criteria. Similarly, member pension contributions could not be deducted from their judicial fees. Currently, when the Ministry of Justice is notified that an individual in this situation retires, an interim payment in lieu of pension is made, but once these judicial offices are added to the FPJPS regulations the payments in lieu will become formalised pension payments.

The second element is the consequential amendments, contained in Part 3, which flow from the addition of these judicial offices to the pension scheme. These amendments ensure two things: first, that eligible service before this SI comes into force on 1 April 2021, and potentially as far back as 7 April 2000, can also count as pensionable service and pension contributions can be deducted in respect of it; and, secondly, these new members can complete certain actions in the scheme, such as the purchase of additional benefits, from their date of admission to the scheme.

Thirdly and finally, we are taking the opportunity of this SI to make some further necessary amendments to the FPJPS regulations. I will highlight three kinds of amendment. First, we explicitly set out the service limitation dates that apply for relevant judicial offices. This is the date from which reckonable service is taken into account for the accrual of pension benefits under the scheme. Service limitation dates represent the point in time when the appropriate salaried judicial officeholders had access to a pension under the Judicial Pensions and Retirement Act 1993 scheme, known as the JUPRA scheme. Following the 2013 judgment in a case called O'Brien v Ministry of Justice, we need to replicate that in the FPJPS. To give the House an example, service in the office of deputy adjudicator of Her Majesty's Land Registry is eligible for an FPJPS pension, but only in relation to service in this office after 1 January 2009. Although these offices already fall under the entry in the FPJPS regulations of

"First-tier Tribunal Judge (where a legal qualification is a requirement of appointment)"

and the service limitation dates could be inferred, if one had the time and interest to do so, from various sources, such as the purpose of the existing regulations and litigation decisions, we consider it preferable for these dates to be clearly specified in these regulations, so that is what we have done.

Secondly, we have taken the opportunity to correct the service limitation dates, which are already listed for three judicial offices in these regulations, as they wrongly limit, by one day, the period of eligible service for these judicial officeholders. To give an example, the entry for

"Legal Chair Criminal Injuries Compensation Appeals Panel"

is currently limited to service in this office after 3 November 2008, whereas the correct date that the amendment records is 2 November 2008.

Thirdly, we have added the new names of two judicial offices already listed in the regulations. These are the Deputy Insolvency and Companies Court Judge, a position formerly known as the Deputy Bankruptcy Registrar; and the Deputy Master of the Senior Courts, formerly known as the Deputy Supreme Court Master.

Turning briefly to the consultations we have undertaken on these and related matters, I shall highlight three. In 2016, we issued a public consultation on the draft regulations establishing FPJPS and the responses were reflected in the final version of the regulations. The scheme commenced on 1 April 2017, with backdated effect to 7 April 2000. We have since undertaken further consultation exercises relating to the addition of eligible judicial offices to FPJPS. In the first of those two additional consultation exercises, in 2018 we consulted directly with judges of the First-tier Tribunal (Property Chamber) Agricultural Land and Drainage, as this office was not expressly mentioned in the 2016 consultation. We received four responses, which we considered carefully.

Secondly, from June to October last year, we consulted on adding these judicial offices to FPJPS as part of a wider consultation on amendments to the regulations on the inclusion of service in the scheme prior to April 2000. We received a number of responses, and the Government response to the consultation was published on 10 December last year. In addition, of course, we have kept the devolved Administrations informed of developments and have liaised specifically with officials from Wales and Northern Ireland regarding the offices whose jurisdictions are in those countries, reflecting their views accordingly.

I can reassure the House that this statutory instrument, which I accept is somewhat technical, is essentially a tidying-up exercise. We are not implementing any major changes through the statutory instrument, nor are we making any amendments to FPJPS with negative implications for judges. In fact, we are doing the opposite: we are enabling additional officeholders to become members of the fee-paid judicial pension scheme, something I know that both the judges concerned and my department are very keen to see happen. The key reason, therefore, for this statutory instrument is to add eligible judicial offices to the FPJPS regulations to enable those officeholders to become members of the scheme and to enable pension contributions to be deducted from their fees. I beg to move.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): The noble and learned Lord, Lord Morris of Aberavon, will be followed by the noble Lord, Lord Bhatia.

5.53 pm

Lord Morris of Aberavon (Lab) [V]: My Lords, I am grateful for the Minister's explanation of the regulations. I am fortunate that in my political and professional career I never had to grapple with the problems of state pensions in any form other than the problems of

[Lord Morris of Aberavon]
constituents. I well remember as a young MP listening to Jim Griffiths, a former Secretary of State for Social Security and one of the architects of the welfare state, replying to a question challenging the universality of welfare payments. His reply was that while the aim is to cover everyone, there will always be a number, hopefully a very small number, who will fall between the cracks. He added that, to avoid the stigma of the means test, "Let the Duke and the dustman have the same benefits and tax them accordingly". I mention this as, following the cases of O'Brien and Miller, this seems to be a very worthy attempt to correct injustices, and I suspect that quite a large number of people will benefit. Can the Minister give an estimate of how many potential cases there are, and what is the likely cost? That, I think, is crucial and was not mentioned in his speech.

My understanding is that every effort will be made to publicise eligibility and contact all retired fee-paid judges. I also presume that all payments will be backdated, and I welcome the useful provision to commute trivial payments. I have endeavoured all my ministerial life to avoid any conflict of interest, but the awful thought occurred to me late last night that as an assistant recorder from 1972 and then a recorder for many years, I might have a claim which I should have declared. I hope the Minister will be able to assure me that recorders or assistant recorders are not, in fact, covered. With those few words, I welcome the regulations, which seek to bring justice to an important class of people who served the state with distinction in a part-time judicial capacity.

5.55 pm

Lord Bhatia (Non-Afl) [V]: My Lords, this SI was prepared by the Ministry of Justice. Its purpose is to make provision for the contributions payable to judicial pensions schemes from 1 April 2020. The territorial extent and application of this instrument is the whole of the United Kingdom.

When the JPS was established in 2015 and the FPJPS in 2017, the relevant member contribution rates and earnings thresholds were fixed for a set period: four years for the JPS 2015 and two years for the FPJPS 2017. During this period, the contribution rates remained unchanged and the earnings thresholds were updated yearly, except for the £150,001 band. By the end of the period, it was expected that rates and earnings thresholds would be reviewed in the light of the outcome of an actuarial valuation of both schemes.

Since then, the Supreme Court has refused the Government permission to appeal against the Court of Appeal's decision in McCloud, and the matter has been remitted to an employment tribunal for consideration of how the difference in treatment should be remedied. We can all agree that this is the right way forward and that our judges perform the most important work in our judiciary system. Does the Minister agree that our judiciary members must receive their rightful pensions, regularly updated to deal with annual inflation?

5.57 pm

Lord Davies of Brixton (Lab) [V]: My Lords, I must first declare an interest. As shown in the register of interests, I am the actuarial adviser to several trade unions with members in other public service pension schemes.

First, we must thank the Minister for his comprehensive explanation. I admire his ability to get the initials of the various schemes right, although I am a bit disappointed that he did not tell us why this happened. Let us spare the blushes of whoever was at fault, though.

These regulations are narrowly focused. However, they provide an opportunity to make a more general point: essentially, the value to all of us of having worthwhile pension arrangements for workers in our public services. There is a strong case, as the lawyers here are likely to agree, for having good pensions for judges. Obviously, this needs to include all eligible postholders, so I welcome the regulations.

Perhaps we take the high standards of our judiciary too much for granted. Of course, these standards are due to many reasons, such as culture, training and so on, but in that mix should be the assurance that its members will have a comfortable retirement. I am not for one moment suggesting that our judges are in it only for the money, but we must be clear that we need to get judicial pensions right.

It is worth noting, therefore, that we are of course in the middle of a review of judicial pensions. The immediate cause was to address the situation produced by the McCloud judgment, but it is also clear that there was a particular difficulty caused by the tax treatment of judicial pensions. So, I hope that I am not pushing my luck too far but I wonder whether the Minister can give any indication of when an announcement about the outcome of the review will be made. Supposedly, the new arrangements are meant to come into force for benefits accruing from April next year, which suggests a tight timetable. Can he give us any information?

6 pm

Lord Thomas of Gresford (LD) [V]: My Lords, I read these papers with considerable interest yesterday and realised for the first time, like the noble and learned Lord, Lord Morris of Aberavon, that I might already be entitled to a government pension. I therefore declare an inchoate interest.

I was appointed a recorder in 1975 and took the judicial oath. I sat as a recorder in Wales and Chester and, later, in the Old Bailey. There were two motivations: that it might be the first step to possible judicial preferment, as well as from a sense of public duty. It was not well paid and there were no thoughts of a pension. I should say that I later served on the Criminal Injuries Compensation Board.

There was a difference between appearing in the Old Bailey and sitting on the bench there. If you appeared as an advocate, you went in through the front door, in a queue of defendants and witnesses; your pockets were turned out, you were personally scanned and your bags were searched. If you went to the judges' entrance round the back, the court usher seized your bags, led you to your room and produced a cup of coffee in fine china. You were then ushered into court by a sheriff of the City of London, in a blue gown with an enormous fur collar, surely provided by the Baltic Exchange. I would hold a nosegay, a posey with an 800-year history; it was necessary to keep from the nostrils the stench of the 12th-century Newgate

gaol, which was originally attached to the Old Bailey. Of course, the gaol was demolished 120 years ago, but you have to support the tourist industry.

As a recorder, you were closely monitored by the Lord Chancellor's Department, and I recall receiving a ticking off from its top civil servant for expressing some view mildly supportive of the civil rights movements in Northern Ireland in the 1970s led by Bernadette Devlin—not of course expressed in court but in a speech at a meeting of Welsh Liberals in Colwyn Bay, which was reported in the *North Wales Weekly News*. Newspaper cuttings were collected in the department on each person serving as a recorder, and I later discovered that my cuttings of Liberal insurrection had appeared in a colleague's file, and it positively held him back. When I reached what would have been retirement age, I received not a pension but a one-liner from an official in the Lord Chancellor's Department: "Dear Thomas, thank you for your services as recorder—you have reached retirement age. Yours faithfully". I have resented it ever since.

I pay tribute to Mr Dermod O'Brien QC and Mr Miller for their 17-year fight to obtain a pension for part-time judges. They had to go via the Employment Tribunal, the Court of Appeal and the Supreme Court to the European Court of Justice, and they won on the provisions of a European directive on part-time workers. What a font of justice that court is. I gather that the Government's argument was that the part-time workers directive was intended not for part-time judges but for apple pickers—and I am rather glad that they lost.

There are many who toil in this capacity of a part-time judge out of a sense of public duty. I recall a colleague who was offered an appointment as a circuit judge, which he accepted; he failed the medical. He sat for the rest of his career, until he retired, as a recorder, doing exactly the same work and attending the same courses as he would have done with a full appointment, but his remuneration was much lower and without a pension. I hope that the direction of decisions of the Supreme Court and Court of Justice in Europe have been a relief to him and to others.

I am sure that this measure went through the Treasury without enthusiasm—indeed, they probably had their teeth gritted. I welcome it, and I am sure that it will encourage many lawyers to come forward in the public service.

6.04 pm

Lord Ponsonby of Shulbrede (Lab) [V]: My Lords, I have enjoyed this debate much more than I thought I would. It has been an education, and there have been some reminiscences of part-time judges from many decades in the past. I have one particular matter to declare: I am co-chairman of the Justice Unions Parliamentary Group. We do our best to help trade unions within the justice system to get them well represented within Parliament. I must say that the example given by Mr O'Brien and Mr Miller is one of sustained litigation, and I think my colleagues within the trade union movement can see the benefits of sustained litigation over many decades.

The Minister gave his customary comprehensive introduction, but, of course, he left out the numbers. How many judges, past and present, are we talking about? How much do we expect that they are owed? How extensive will the backdating of these pensions be?

The noble and learned Lord, Lord Morris, was one of the recorders of the past and spoke with his usual eloquence. In fact, both he and the noble Lord, Lord Thomas, may be seeking the help of the Minister to access their pensions. I am very interested to see what his response to their requests will be.

My noble friend Lord Davies of Brixton—who I have not met—gave an extremely interesting and worthwhile speech, with real knowledge, so there is no doubt that he will be a great asset to this House. But the review of judicial pensions to which he referred, and its likely outcome, will be of great interest to the participants in this debate as well as to the wider judicial community. I look forward to the Minister's answer to his questions.

I have a full brief on this debate, but most of the points have already been made. It is an important and essentially non-contentious issue that part-timers should be treated the same as full-timers. Of course, it is regrettable that it has taken the Government losing in European courts and a long time to get to this position. Nevertheless, the Labour Party will support these measures today, and I look forward to the Minister's response.

6.07 pm

Lord Wolfson of Tredegar (Con): I am grateful to all noble Lords who have contributed to this debate. I hear the words of the noble Lord, Lord Ponsonby, ringing in my ears. He said that he had enjoyed this debate more than he thought he would; the problem is that he did not tell us how much he thought he would enjoy it, so I do not know whether he set a very low bar. But I will take it, as I enjoyed the debate very much, that he—like me—had a moderate expectation which has been significantly exceeded.

I have been asked by a number of noble Lords to provide independent legal advice on their pension entitlement. I am respectfully going to avoid doing this, not only because I am now an unregistered barrister so cannot give any legal advice at all but because I am not entitled to either a judicial or indeed a ministerial pension. However, I will set out, I hope clearly, that the Government are determined to ensure that all those entitled to pensions as a result of the four decisions—O'Brien 1, O'Brien 2, McCloud and Miller—receive them. Therefore, to pick up on the point made by the noble and learned Lord, Lord Morris of Aberavon, we do not want anybody to fall between the cracks.

As to how many people we are talking about, that rather depends on whether we are talking about people affected by those decisions or the people affected by the SI. The number of people affected by the SI is very small—a handful, maybe 10 or 15. The number of people affected by the other decisions is some 5,700, and at the moment we are paying about 1,235 people interim payments to reflect moneys to which they are entitled. As of 31 January this year, we have agreed 2,573 service records out of that estimated total of 5,706 for the O'Brien 2 and Miller claimants, and obviously we will be progressing that so far as we can.

[Lord Wolfson of Tredegar]

Noble Lords are respectfully right to point out that this is the result of a number of court decisions; I deliberately did not go through the material in my opening, not least because of time. But it is important that judges, like everybody else in our society, have access to the courts, and it is also important that we recognise that our justice system depends not only on full-time, salaried judges but on a whole raft of fee-paid judges in all sorts of courts and tribunals up and down the land, without whom the critical infrastructure of our justice system would simply not exist.

I have been asked to say something about the current consultation; I will do that with reference to the McCloud litigation, which the noble Lord, Lord Bhatia, specifically asked about. As the House will be aware, the gist of that decision by the Court of Appeal, if I may respectfully paraphrase it, was that less favourable treatment was being given to some younger judges as compared with more senior judges. We have looked at that decision as part of the future reform, in respect of which we want to give judges an option as to whether or not they join the reform scheme.

From 2022, the reform scheme will be the only scheme in which members can accrue benefits; all other judicial pension schemes would close to future accruals, but no benefit previously accrued will be lost. Therefore, for those currently on final salary schemes—JUPRA or FPJPS—those benefits will be linked to their salary when they retire or leave judicial office. I can inform and, I hope, please the noble Lords who asked me what the timescale is—in addition to the noble Lord, Lord Ponsonby, I think it was the noble Lords, Lord Thomas of Gresford and Lord Davies of Brixton. The timescale is imminent; we will be publishing the government response to the consultation later this week. Off the top of my head I think it will be Thursday, but it will certainly be this week. So we are not sitting on our hands; we are certainly getting on with it.

In the time remaining I will pick up a number of other points. I respectfully agree with the noble Lord, Lord Davies of Brixton, that we need to get judicial pensions right. That is important in order to attract people to become judges, to retain them as judges and to make sure that they have a proper pension scheme. The tax treatment is part of that and noble Lords will see how we have responded to it in the consultation later this week. There is no question but that this Government put a very high degree of importance on getting the judicial pension structure and system right in order to attract people into the scheme.

I hope that I have picked up all the questions I was asked. I think the only question outstanding, from the noble and learned Lord, Lord Morris of Aberavon, and, I think, from the noble Lord, Lord Thomas of Gresford, was about whether recorders are in the scheme. I have been informed, while on my feet, that recorders are already in the scheme—so I hope that that bit of personal good news will be welcome to those Members. I will check the *Official Report* to see whether there are any questions I have not responded to—but I hope not, and I therefore commend these regulations to the House.

Motion agreed.

Electricity Supplier Payments (Amendment) Regulations 2021

Motion to Approve

6.15 pm

Moved by ***Lord Callanan***

That the draft Regulations laid before the House on 21 January be approved.

Relevant document: 44th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, this statutory instrument amends regulations concerning the levies that fund the operational costs budgets for the Low Carbon Contracts Company and the Electricity Settlements Company. LCCC administers the contracts for difference scheme on behalf of the Government, and ESC administers the capacity market scheme. Those schemes are designed to incentivise the significant investment required in our electricity infrastructure, keep costs affordable for consumers and help to meet our net-zero target, while keeping our energy supply secure.

Contracts for difference, or CfDs, provide long-term price stabilisation to low-carbon generators, allowing investment to come forward at a lower cost of capital and therefore at a lower cost to consumers. The capacity market ensures security of electricity supply by providing to all forms of capacity the right incentives to be on the system and to deliver capacity when needed by increasing generation or by turning down their electricity demand in return for guaranteed payments. In both schemes, participants bid for support via a competitive auction, which ensures that costs to consumers are minimised.

The next CfD auction—the fourth to date—planned to open in late 2021, will be available to both established technologies, such as solar PV and onshore wind, as well as less-established technologies, such as floating offshore wind. As the Prime Minister announced in October, we seek to secure up to 12 gigawatts of renewable electricity capacity in this round—double what was secured in the last round in 2019. It will thus allow a broad range of renewable technologies to come forward, while delivering the best possible deal for bill payers.

The capacity market is tried and tested, and is the most cost-effective way of ensuring that we have the electricity capacity we need now and in the future. It facilitates investment in existing capacity to remain in the market and drives innovation in financing new capacity to be built. The capacity auctions held to date have secured the capacity we need to meet the forecast peak demand out to 2023-24. The next auctions, scheduled for March 2021, will secure most of the capacity we need out to 2024-25.

LCCC and ESC play a critical role in delivering the CfD and capacity market schemes. LCCC enters into and manages CfDs with low-carbon generators, collecting the supplier obligation levy from electricity suppliers, which it uses to make payments to generators under

the CfD. ESC is responsible for all financial transactions relating to the capacity market, including collecting the supplier charge from electricity suppliers, which it uses to make capacity payments to capacity providers, but also managing supplier credit cover and capacity providers' auction credit cover. This statutory instrument sets a revised operational cost levy for the LCCC and a revised settlement costs levy for the ESC, which the companies collect from suppliers to fund their day-to-day operations in administering the CfD and capacity market schemes.

It is important that LCCC and ESC are sufficiently funded to perform their roles effectively, given their critical role in administering these schemes. However, the Government are clear that both companies must deliver value for money and, with that in mind, we have closely scrutinised their operational costs budgets to ensure that they reflect the operational requirements and objectives for the companies. Savings have been identified in a number of areas. For example, £184,000 has been saved by reducing the number of desks that LCCC will have at its new office, reflecting changing work patterns.

LCCC and ESC are themselves very mindful of the need to deliver value for money, as their guiding principle is to maintain investor confidence in the CfD and capacity market schemes while minimising costs to consumers. They have taken a number of actions to date to reduce costs, such as bringing expertise in-house rather than relying on more expensive outside consultants. Because of actions such as those, CfD operational costs are falling both per contract and by overall generation capacity, despite the growing size of the CfD portfolio. It is a similar narrative for ESC. The company currently manages 54.4 gigawatts of capacity agreements with 513 capacity providers under the capacity market. This is expected to increase to 55.16 gigawatts of capacity and 546 capacity providers in 2021-22. Despite this increase, operational costs are expected to be marginally lower in 2021-22 compared to 2020-21.

The operational costs budgets for both companies were subject to consultation, which gave stakeholders the opportunity to scrutinise and test the key assumptions in the budgets and, importantly, to ensure that they represent value for money. Subsequently, the budgets remain unchanged save for one amendment, which I will briefly summarise. The consultation was published before the outcome of the 2020 spending review was known. The review announced a pause in public sector pay rises for the majority of the workforce. Taking into account this outcome of the review and the wider economic landscape, LCCC's remuneration committee decided to agree a pay pause for its staff for 2021-22. Consequently, an allowance contained within LCCC's operational costs budget for pay rises that was included in the consultation has now been removed.

In conclusion, taking into account the removal of that allowance, the proposed operational costs budget for LCCC in 2021-22 is £20.736 million and £7.472 million for ESC. The amendments revise the levies currently in place to enable the companies to collect enough revenue to fund these budgets. Any levy collected that is not spent will be returned to suppliers at the end of the financial year in accordance with the regulations. Subject to the will of Parliament, the settlement cost levy for ESC is due to come into force on the day after the day on which these regulations are made and the operational costs levy for LCCC by 1 April 2021. Finally, I assure noble Lords that the Government will continue to evaluate and monitor the costs of both companies, ensuring that costs to consumers are appropriately minimised. I therefore commend these draft regulations to the House.

6.23 pm

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, I thank the Minister for introducing this statutory instrument. I expect that, as the noble Lord looks at it, sensible as it is, he realises that the reasons for switching back to a one-year period are a lot more interesting than the actual return to an annual period. My main reason for putting my name down to speak was curiosity—to find out more about trends in the electricity market as a result of the pandemic.

I have no quarrel with this instrument. I accept that, as the contract for difference operational costs levy and settlement costs levy need to be fixed, and the amounts get spread over the estimated total demand, and with the pandemic having made that harder to predict, it is being done for only one year rather than three. I am sure that it would be quite difficult to work out the contingency over a three-year period.

That raises the question of whether there are shortfalls from the current period of reduced demand and how they have been covered. Was there an adequate contingency, or is there any carryover? I seem to recall —I think it might have been back in the summer—that we examined the statutory instrument dealing with the government loan and delayed payback mechanism, which was adjusted to delay by four quarters instead of three due to reduced electricity demand during Covid. The reduction in consumption then was caused by industry shutdowns, although domestic energy consumption had gone up.

We have just had the heavy winter months; I suppose we are still in them. Are there now any more figures on how lockdown, children at home and working from home have influenced domestic consumption? What is the overall picture of business consumption, and is there any sectoral analysis? I appreciate the Minister may not have that to hand.

It is recognised that longer-term changes in working practices have accelerated due to lockdown, with more working from home likely to continue. Looking at what has happened in the various stages of the pandemic and lockdown, is this predicted to lead to more or less electricity consumption overall? For example, is the change from office consumption to home consumption broadly neutral, or is there an overall increase with both homes and offices in use? If there is a shift from commercial use to domestic use tariffs, how will that affect prices?

Paragraph 7.7 of the Explanatory Memorandum highlights, as the Minister has done, that among the reasons for a £3.251 million budget increase on costs is that the next CfD auction will support up to double the capacity of renewable energy. The more green energy the better, but consumers will want to know when electricity costs will come down in order to

[Baroness Bowles of Berkhamsted]
incentivise switching to electricity and away from domestic use of gas. It is somewhat ironic that there are currently incentives to replace old gas boilers with new gas boilers, when new homes will not be allowed to have gas boilers from 2025. However, right now, at least where I live, homes with electric heating tend to stick on the market because of the running costs. This is getting relatively urgent and has to be addressed because we do not just want new homes to switch. We surely want many more people to consider switching.

I have no objections to this SI and I realise that my questions are additional issues. If the Minister has to reply in writing, then that is acceptable.

6.27 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, it is a great pleasure to follow the noble Baroness, Lady Bowles of Berkhamsted, and I was intending to raise many of the issues she has just raised. I will still raise them, but it may now take me less time to do so. She has really put her finger on the concerns relating to the switch from the three-year basis to the one-year basis and some of the thinking behind this. I thank my noble friend for setting out the effects of these regulations very clearly and for what he said about the capacity auction—I will come back to that later, if I may.

These regulations relate to the contracts for difference schemes, which, quite rightly, encourage low-carbon electricity generation, and to the capacity market, which helps ensure security of supply. These are clearly central to government policy, which I am sure is supported in principle across the House.

The levy for the contracts for difference counterparty was previously first assessed on an annual basis. It then went to a three-year process, where the levy was fixed for three years in advance. We are now returning to a one-year basis because of the significant drop in demand for electricity in the last year. I understand all of that and support the regulations, but I am wondering what thinking there is about whether there will be a reversion to a three-year basis. I think these regulations will continue until they are superseded, so the basis will be the same. It would be interesting to hear if the Government have given any thought in the medium or long term to a return to a three-year basis, particularly in light of the Prime Minister's road map outlined yesterday?

Clearly, this is central to the way we approach the whole issue of energy security and indeed green energy going forward, and the drive to net zero. Like the noble Baroness, I wonder what the thinking is about what happens once the pandemic ends or we come largely out of it, and whether there will be a long-term difference in the way that energy needs to be supplied. Will there be a switch to more people working from home—I am sure there will—what will be the effect of that and of people presumably not going to restaurants on the way to work for breakfast, and so forth? What will be the effect of a change from one type of transport to another? Clearly, all this needs to be considered and factored in. On a broader front—I appreciate that this is well beyond the immediate scope of these regulations—what thinking have the Government given to this issue? If my noble friend does not have the details, I would be very happy for him to write to me.

I thank my noble friend for what he said about the capacity auction, which I understand from him today is to be in March of this year. I do not know whether he has a precise date; that would be interesting to hear. I welcome too what he said about the increased ambition and the technologies it embraces.

In conclusion, on a broader front—as I say, I certainly support the regulations—in view of COP 26 in Glasgow in November and the accelerated action towards the goals of the Paris agreement and the UN Framework Convention on Climate Change, which I certainly welcome, will Her Majesty's Government commit more resources to this vital international endeavour? The Government have done much and I know that my right honourable friend the Prime Minister is personally committed to this, but with the welcome arrival of President Biden and indeed of John Kerry as special envoy on climate, what bilateral discussions are we having with the USA and what future resources are we committing to net zero? As I say, if my noble friend does not have details, I will be very happy to learn about them in writing.

6.32 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Bourne of Aberystwyth, and I thank the Minister for introducing these regulations.

I am not opposed to the regulations as I believe they are standard practice in the electricity industry. However, like the noble Baroness, Lady Bowles of Berkhamsted, I am curious about certain issues. I am concerned about the impact of the pandemic on the commercial, business and hospitality services and above all on the jobs of many people working in these sectors. I am concerned about the long-term consequences for livelihoods and the impact on the electricity industry and the use of electricity by consumers. I note that there has been a downturn in demand for electricity in the business sector, given that so many people now work from home, and that the House of Lords Secondary Legislation Scrutiny Committee considered this an instrument of interest because it involves changes to business practice and regulation.

The Department for Business, Energy and Industrial Strategy says that it would have preferred to propose new levy rates for the next three financial years to reduce the administrative burden on the sector, as it did in 2017, but that electricity demand has fallen significantly during the pandemic and that this uncertainty makes it difficult to forecast electricity demand beyond the 2021-22 financial year. The department estimates that the amounts of money for business and domestic consumers will not be great.

Notwithstanding that fact, I have some questions for the Minister. Like noble Lords who have previously spoken, I will be quite content to receive those answers in writing if he does not have them today.

Is it possible to estimate domestic electricity consumption and is there a change in such consumption as more people are now working from home as a result of the pandemic? What has been the corresponding level in terms of payments or revenue received? Has there been a read-across to the winter severe weather

period, given that electricity companies have models for predicting weather patterns and increases in electricity consumption uptake? Is it possible to estimate on a cross-departmental basis with the Department for Work and Pensions the number of people who are in fuel poverty because their level of income benefit dependency does not allow them to pay for their electricity? That particularly applies to the domestic sector.

In what ways is the Covid pandemic reducing demand for electricity in the business environment, in both the private and public sectors? Will that change with the re-opening of the economy, as per the plan outlined by the Prime Minister yesterday? Has there been a marked decrease in the commercial, business, industrial and public sector environments? Is it possible to put a figure on this? Also, I understand ministerial limits, but does the plan involve BEIS working with the Treasury to get business working again on an incremental basis to underpin our economy? Will the plan provide an update on electricity consumption in the business and commercial sphere? What representations have been received from those sectors?

Will there be further legislative measures beyond 31 March 2021 to prevent insolvencies? The Minister has brought forward previous statutory instruments, the last of which is due to expire at the end of March. I am surprised that no full impact assessment is required for these statutory instruments whenever there is an impact on the uptake of revenue in respect of electricity bills for the business sector. What is the assessment of the impact on electricity bills of changes to people's lives and working environments as a result of working from home? I look forward to the Minister's response.

6.37 pm

Baroness McIntosh of Pickering (Con): My Lords, I am delighted to follow the noble Baroness, Lady Ritchie of Downpatrick. I thank my noble friend the Minister for introducing the regulations, which I intend to support. I am also grateful to the Secondary Legislation Scrutiny Committee for its report and the two paragraphs it allocated to this issue, which it obviously does not deem to be one of great concern. However, I would like to press my noble friend on a couple of issues arising from that report and the Explanatory Memorandum.

I understand that the regulations and the CfD scheme are the main mechanism for supporting new renewable electricity generation projects in Britain, and that the CfD counterparty enters into and manages CfDs with low-carbon electricity generators, so this is something we wish to support. I want to press my noble friend on whether there have been more surges in electricity supply of late, and whether this is because more of us are working from home, as other noble Lords have referred to, and fewer people are using electricity in the workplace.

Paragraph 33 of the Secondary Legislation Scrutiny Committee's 44th report sets out the increases that BEIS estimates as the total impact of the new levy rates. They sound very reasonable: 40 pence

"on the average annual household electricity bill"

—noble Lords will be interested to know from my noble friend whether that will go up if we continue to work from home—and

"£30 for a typical small-sized business (using around 250 megawatt hours per year) and £1,200 for a typical medium-sized business (using around 10 gigawatt hours per year)."

The department concludes that rates will be

"less than 0.1% of these users' electricity bills",

so I presume that those figures will not have changed.

Paragraph 12.1 of the Explanatory Memorandum attached to the regulations states, quite emphatically:

"The impact on business, charities or voluntary bodies is limited."

However, as there has not been an impact assessment, we do not know that for sure, so can my noble friend confirm that nothing of concern—to charities or voluntary bodies in particular—was raised in this regard in the consultation?

To what extent is the renewable electricity supply to which the regulations refer going to satisfy all the needs of those of us who will be asked to buy electric vehicles? Under the regulations, what will be the impact on future generations and auctions—particularly the next one—of the fact that more electric vehicles are being driven by private drivers, company drivers and, indeed, public transport, with many buses now running on electricity alone? It greatly concerns me that no one has yet told me—I would be delighted if my noble friend could do so—what the source of all the new electricity to run these e-vehicles will be.

I am still bruised by the fact that, as a rural dweller, I was encouraged to buy a diesel car, which I did, and I am now paying quite expensive tax for the privilege of running it. That is reflected in a higher polluter rate for diesel. I would like to know from somebody, at some time, that we will not pay a premium on electric vehicles because it is a very new form of power for vehicles, as opposed to the combustion engine.

Finally, I refer to paragraph 14.3 of the Explanatory Memorandum, which states that conclusions of the review of the first five years of operation of Section 66 of the Energy Act 2013, which introduced a number of aspects of the operation of the electricity market reform programme, were due and are now delayed. It would have been very helpful to have had the review before Parliament before we are asked to consider the regulations before us today. I understand that the delay is due in part to the fact that this department in particular has been very busy with preparing for the UK's departure from the European Union and the impact of the Covid-19 pandemic. However, it would be helpful to know today when my noble friend expects the findings of the review to be laid before Parliament and when we might have the opportunity to study them.

With those few remarks, I look forward to my noble friend's reply, but I wish the regulations before us today a swift passage through Parliament.

6.42 pm

Lord Oates (LD) [V]: My Lords, I declare my interest, as set out in the register, as chairman of the advisory board of Weber Shandwick UK. I thank the Minister for his helpful introduction, and it is always a pleasure to follow the noble Baroness, Lady McIntosh of Pickering, as we entered the House on the same day.

As the Explanatory Memorandum highlights, the electricity market is complex and opaque, perhaps necessarily so because of the various mechanisms that

[Lord Oates]
have been put in place to ensure that sufficient capacity is available as we restructure and decarbonise the electricity supply. The complexity has been compounded by the uncertainty in predicting demand as a result of the pandemic. It is regrettable that the Government cannot go forward with their previous three-year levy settlement but, of course, given these uncertainties, I understand the need to revert to the one-year basis.

Given the complexities of the market, I would be grateful if the Minister could assist me with the answer to a number of questions arising from the Explanatory Memorandum. First, paragraph 7.7 states that the increase in the CfD counterparty's budget is

"due to a number of factors, including ... the inclusion of Pot 1 Technologies (onshore wind and solar)"

in allocation round 3. My understanding had been that onshore wind was driving down costs and that the cost pressure on CfDs was to keep offshore wind competitive with it. Can the Minister clarify this matter for me?

Secondly, as the noble Baroness, Lady McIntosh, said, the EM notes that the Secretary of State is required under the Energy Act 2013 to review a number of aspects of the operation of the electricity market reform programme, including CfDs, the capacity market and the transitional arrangements from the renewable obligations, as soon as practicable five years after the passage of that Act. That means by the end of 2018. Can the Minister explain why the Secretary of State is in breach of this duty because, unlike the noble Baroness, I am a little less accepting of the excuses—I will not call them explanations—provided in the EM? It says that this is due to a range of factors, including the Covid-19 pandemic and Brexit, but the pandemic did not begin until more than a year after the trigger date for the report and Brexit had been known about for two years prior to that date. The EM tells us we will get the review "shortly". Please can the Minister be a little more precise, as it is obviously important that we see it as soon as possible?

As the market is currently structured, these levy increases are obviously necessary so that the CfD counterparty and the settlement body can continue to discharge their duties, drive technological innovation and secure capacity as we decarbonise our energy supply. Nevertheless, we are in an unsatisfactory situation. The EM tells us that an impact assessment has not been prepared for the regulations because of the low-level impact on electricity consumer bills. They are estimated at just 0.1% of those bills, just 40p, the EM tells us, on the average annual domestic bill, rising to an extra £1,200 in the case of medium-sized businesses. These figures may be small as a proportion of overall bills, but we have all heard of the straw that broke the camel's back. Many businesses and consumers could not be in a worse position to absorb added costs as a result of the effects of the pandemic. We all know that these latest increases come on top of a steady accumulation of costs on consumers. Is it not time that we had a proper look at this whole area, as the noble Baroness, Lady Ritchie, suggested?

The fundamental problem is that we are trying to pay for the decarbonisation of our energy supply through consumer electricity bills. This is a profoundly regressive approach to securing a public good, namely, combating climate change. As my noble friend Lady Bowles highlighted in her comments, this also makes decarbonising our heating systems even more difficult than it would be anyway because it continues to load costs onto a cleaner energy source, so further disincentivising people to move off gas towards heat pumps and other technologies, something we must achieve if we are to have any hope of meeting net zero. How will that objective be achieved unless we rebalance the costs of decarbonisation more equitably and reverse the perverse incentives that have been created towards gas?

In conclusion, I fully support the Government in their ambitious net zero targets and in their ambition for expanding renewables, but does the Minister not recognise that we will not maintain public support for the radical transformation that net zero requires unless we ensure that it is delivered justly and equitably? That is just not happening now.

6.48 pm

Lord Grantchester (Lab): I thank the Minister for his explanation of the regulations before the House tonight. They are essentially non-controversial, and on this side of the House, we do not take issue with them. The contracts for difference regime has been moderately successful in bringing forward renewable energy developments at least cost to the consumer and in reforming the previous energy market. As the Minister explained, the CfD counterparty is the responsible body managing it. It collects levies from energy suppliers for its budgetary costs. The capacity market has a similar body, the settlement body, that collects levies to pay generators the agreed capacity market payment systems' costs. Both bodies work together, and the two are connected, as in both cases capacity market interventions are dependent on overall anticipated energy demand levels.

In preparing for this instrument, I note that I am the only person still in post after the passing of the initial Energy Act 2013 and subsequent instruments on supplier payments, the last one being in March 2018. The energy market has changed substantially over that period, yet the CfD regime has provided long-term price stability for low-carbon generators and has incentivised investments to come forward at generally the least cost to consumers. The lights have been able to stay on and switched throughout that period. I congratulate the Government on that.

In 2018, we agreed with the Government that the best stability, certainty and consistency to suppliers' levies would be maintained by setting budgets three years ahead. While appreciating the present circumstances of the pandemic, the recent fall in energy demand and the extension of the CfD and capacity market to greater development from more energy sources and generators, the amendment today in favour of a one-year costs regime is understandable—albeit that the situation will be constantly monitored. Can the Minister commit that a return to three-yearly terms will be restored as soon as possible? That would be important to hear. The noble Lord, Lord Bourne, a previous Energy Minister, posed several further questions around a return to three-yearly budgets.

Back in 2018, the first three-yearly term was set up after the workings of the regime settled down into familiar regularity from the start of the initial regime under the Energy Act. It is interesting to reflect that the same concerns expressed then are being repeated today and it would be interesting to hear the Minister's interpretations on the outcome of the experiences against the expectations at that time. In 2018, the main concerns were operational costs and how the levy rate was increasing to cover them, given that they all pass through to consumers.

At that time, there was enormous cost inflation—some 700%—to cover the following three years from 2018 until this statutory instrument. Can the Minister give the outline of how costs indeed rose over that period now that, once again, over a potential one-year period, a further 18% cost rise is envisaged? How have the relative costs of operations between the various cost factors changed over this time? The number of participants from inception to 2018 increased from 46 to 447. What is the number of participants now and how is it expected to increase, given a further large increase in offshore wind deployment as well as the opening of the CfD regime to onshore wind?

Operational costs should have reduced as a percentage of the whole scheme to 0.6% in 2020, against the expected forecast in the fall of gross energy demand of some 2%. Can the Minister update the House on the actual figures on how the outcome of a further 18% increase in operational costs and levies is being transferred through? That seems to be a huge rise. At this precarious time for the economy, the rise will be reflected in increased energy bills, albeit that the Explanatory Memorandum forecasts that this will translate only to a 40p per annum increase on the average household bill.

The considerations of the Minister's department over the longer period, beyond the pandemic experiences, have been expressed throughout this debate. It would be useful to understand some of those considerations from him. The noble Baroness, Lady McIntosh, as well as the noble Lord, Lord Oates, raised the point that the review of the Energy Act is now long overdue.

With the increased pressure to decarbonise the economy faster in the much-awaited green recovery expected soon, and with the extension to further technologies, policy changes and investment still required, does the Minister expect these sorts of increases in levies to continue, or will his department begin thinking of alternative ways to fund CfD levies into the future? It is important to keep paying attention to the requirement that development must be at the least cost to the consumer. It is fundamental to hear from the Minister and his department further long-term investment cost schedules now that the energy White Paper has been published.

6.55 pm

Lord Callanan (Con): First, I thank all noble Lords who contributed to the debate. I am delighted that the noble Lord, Lord Grantchester, is still following this brief from 2013. He showed that in the excellent contribution he made and in the knowledge he portrayed in his questions. I hope that my answers can do his memorable state justice.

As I set out in my opening speech, the companies and the Government have taken steps to ensure the proposed operational cost budgets allow the companies to perform their crucial roles effectively while representing value for money for consumers. I believe that these twin aims will be achieved if this draft regulation is approved. However, the noble Lord, Lord Grantchester, did make an important point, and I will not pretend the 19% increase in the LCCC's budget is not significant; it clearly is. I do believe, though, that this is a justifiable increase, and I will set out, for the benefit of the House, why that is.

The increase in the budget reflects a number of factors, in particular the company's important role in helping to meet our legally binding net-zero target while minimising costs for consumers. The CfD scheme has proven that it can deliver large-scale, low-carbon generation while driving down costs. The cost of offshore wind, for example, as noble Lords have pointed out, fell by two-thirds between the first CfD auction, held in 2015, and the third auction, held in 2019. This proposed budget will allow the LCCC to play its part in delivering the next CfD auction, which will bring forward more low-carbon electricity while further pushing down technology costs and, in doing so, bring us closer to meeting our net-zero target.

I should also point out to the House that the LCCC is facing a number of costs beyond its control in 2021-22, such as the increased uncertainty in energy demand arising out of Covid-19. A number of noble Lords have referred to that. This has necessitated an increase in its existing contingency for lower-than-expected electricity demand—and other world events, such as Covid-19, have also pushed up insurance premiums for companies.

As the CfD portfolio expands, that increases the likelihood of a legal dispute arising between the LCCC and a generator. Consequently, the proposed budget increases the existing contingency for such disputes from £2.1 million to £3 million. The level of this increase has been informed by the costs of past and present legal disputes. It is important to consider that these two contingencies—one focused on electricity demand and the other on legal disputes—may not be needed. If that is the case, the funds raised from the levy to cover these costs will be returned to electricity suppliers. Excluding these contingencies, the overall increase in the budget equates to approximately 9%.

Noble Lords have also touched on what this budget increase means for electricity consumers. That is indeed important. I agree that we have to scrutinise every penny that goes on to consumer bills, but I also believe that in this case there has been sufficient scrutiny. Given the important role both companies play in our electricity system, a bill impact equating to less than 0.1% for the average consumer is proportionate and justifiable.

Virtually everybody who spoke—certainly the noble Baronesses, Lady Bowles and Lady Ritchie, my noble friend Lord Bourne, and the noble Lords, Lord Oates and Lord Grantchester—raised the important question of why we were setting the levy for the next financial year only, when we set the last set of levies, in 2018, for three financial years. We are amending the levy rates

[Lord Callanan]
for 2021-22 only, instead of for the next three years, because of the impact of Covid-19 on electricity demand forecasting. Electricity demand has reduced significantly during the pandemic. Increased uncertainty with regard to a number of factors used to forecast electricity demand makes it extremely difficult to do so beyond the 2021-22 financial year. LCCC's operational cost levy rate is calculated by dividing its annual budget by the total forecast electricity demand for the corresponding financial year. If demand is lower than forecast, LCCC will not be able to raise enough income from the levy to meet its budgeted costs. Therefore, a robust forecast of electricity demand is needed for each financial year to set the levy accurately.

My noble friend Lady McIntosh asked whether we needed an impact assessment. As she correctly said, an impact assessment has not been prepared for this instrument because of the relatively low levy impact on electricity consumers' bills.

My noble friends Lord Bourne and Lady McIntosh, and the noble Baronesses, Lady Ritchie and Lady Bowles, asked about the impact of Covid on electricity demand and household bills. I will write to noble Lords on that, setting out what information we currently have on the deployment.

The noble Baroness, Lady Bowles, and my noble friend Lord Bourne asked about our ability to forecast electricity demand accurately and whether we would therefore set the levy for more than just one financial year. In the next round, we intend to return to the status of setting the levy for three financial years.

My noble friend Lady McIntosh asked about the consultation, on which I have responded. The noble Baroness, Lady Bowles, asked about the contingency for reduced electricity demand and why it has increased. The contingency in the proposed 2021-22 budget has increased by £0.75 million compared to the 2020-21 budget because of the impact of Covid-19. The pandemic has resulted in a reduction in electricity demand. LCCC's forecasts predict that reduced demand will continue into 2021-22, but the landscape is extremely uncertain, as the Government may need to take further actions that impact on demand; for example, the emergence of new variants may require them to take extra measures in the short term to counter this threat, although we are confident that vaccines can be adapted to mitigate it in the medium term. To reflect this increased uncertainty and to mitigate the risk of LCCC having to rely on BEIS for cashflow, the electricity demand contingency has been increased by £0.75 million, bringing it to £1.5 million overall in 2021-22. As I said earlier, if the contingency is not used, it will be returned to the companies.

My noble friend Lady McIntosh and the noble Lords, Lord Oates and Lord Grantchester, asked when the five-year review of the energy market would be laid before Parliament. I am deeply conscious of the fact that this review is now overdue. We expect it to be laid in Parliament shortly.

The noble Lord, Lord Oates, asked about the operational budget being funded via a levy on electricity consumers rather than general taxation, a point raised many times in this House. The costs of decarbonisation should be shared fairly among consumers. Levying costs for supporting the deployment of clean electricity in this way enables electricity consumers to pay towards the costs associated with increasing the proportion of renewable electricity supply, from which they subsequently benefit. The contracts for difference scheme was designed to deliver value for money for consumers and it is doing so, with costs falling in every auction held to date. The CfD is entering a new phase in which renewable projects could even reduce consumer bills, as they are now much cheaper than alternative forms of generation. The LCCC must therefore be adequately funded if it is to perform its role in delivering the CfD effectively.

A number of other, more general questions were asked about energy policy and decarbonisation. If noble Lords will forgive me, I will not take up the time on these regulations by answering those, but I will write to them separately. I think that I have addressed all the points raised during the debate. I therefore take pleasure in commending the regulations to the House.

Motion agreed.

Future of Health and Care

Statement

The following Statement was made in the House of Commons on Thursday 11 February.

"Mr Speaker, I come to the House today to set out our White Paper on the future of health and care. The past year has been the most challenging in the NHS's proud 72-year history. The health and care system as a whole has risen in the face of great difficulties. Throughout, people have done incredible things and worked in novel and remarkable ways to deliver for patients, and we in this House salute them all—not just the nurse who may have had to care for two, three or four times as many patients as he would in normal times, and not just the surgeon who may have been called to treat patients beyond her normal specialism, but the managers across health and care who have come together in teams, as part of a health family, at local and national level; the public health experts who have been needed more than ever before; and the local authority staff who have embraced change to deliver for their residents—and from all, a sense of teamwork that has been inspiring to see.

As a citizen, I care deeply for the whole health and care family, the values they stand for and the security they represent. They are there for us at the best of times, and they are there for us at the worst of times. As Health Secretary, I see it as my role sometimes to challenge but most of all to support the health and care family in their defining mission of improving the health of the nation and caring for those most in need.

I come before the House to present a White Paper based firmly on those values, which I believe are values that our whole nation holds dear. The White Paper is built on more than two years of work with the NHS, local councils and the public. At its heart, this White Paper enables greater integration, reduces bureaucracy and supports the way that the NHS and social care work when they work at their best—together. It strengthens accountability to this House and, crucially,

it takes the lessons we have learned in this pandemic about how the system can rise to meet huge challenges and frames a legislative basis to support that effort. My job as Health Secretary is to make the system work for those who work in the system—to free up, to empower and to harness the mission-driven capability of team health and care. The goal of this White Paper is to allow that to happen.

Before turning to the core measures, I want to answer two questions that I know have been on people's minds. First, are these changes needed? Even before the pandemic, it was clear that reform was needed to update the law, to improve how the NHS operates and to reduce bureaucracy. Local government and the NHS have told us that they want to work together to improve health outcomes for residents. Clinicians have told us that they want to do more than just treat conditions; they want to address the factors that determine people's health and prevent illness in the first place. All parts of the system told us that they want to embrace modern technology, to innovate, to join up, to share data, to serve people and, ultimately, to be trusted to get on and do all that so that they can improve patient care and save lives. We have listened, and these changes reflect what our health and care family have been asking for, building on the NHS's own long-term plan.

The second question is: why now, as we tackle the biggest public health emergency in modern history? The response to Covid-19 has accelerated the pace of collaboration across health and social care, showing what we can do when we work together flexibly, adopting new technology focused on the needs of the patient and setting aside bureaucratic rules. The pandemic has also brought home the importance of preventing ill health in the first place by tackling obesity and taking steps such as fluoridation that will improve the health of the nation. The pandemic has made the changes in this White Paper more, not less, urgent, and it is our role in Parliament to make the legislative changes that are needed. There is no better time than now.

I turn to the measures in detail. The first set of measures promote integration between different parts of the health and care system and put the focus of health funding on the health of the population, not just the health of patients. Health and care have always been part of the same ecosystem. Given an ageing population with more complex needs, that has never been more true, and these proposals will make it easier for clinicians, carers and public health experts to achieve what they already work hard to do: operate seamlessly across health and care, without being split into artificial silos that keep them apart.

The new approach is based on the concept of population health. A statutory integrated care system will be responsible in each part of England for the funding to support the health of their area. They will not just provide for the treatments that are needed, but support people to stay healthy in the first place. In some parts of the country, ICSs are already showing the way, and they will be accountable for outcomes of the health of the population and be held to account by the Care Quality Commission. Our goal is to integrate decision-making at a local level between the NHS and local authorities as much as is practically possible, and ensure decisions about local health can be taken as locally as possible.

Next, we will use legislation to remove bureaucracy that makes sensible decision-making harder, freeing up the system to innovate and to embrace technology as a better platform to support staff and patient care. Our proposals preserve the division between funding decisions and provision of care, which has been the cornerstone of efforts to ensure the best value for taxpayers for more than 30 years. However, we are setting out a more joined-up approach built on collaborative relationships, so that more strategic decisions can be taken to shape health and care for decades to come. At its heart, it is about population health, using the collective resources of the local system, the NHS, local authorities, the voluntary sector and others to improve the health of the area.

Finally, the White Paper will ensure a system that is accountable. Ministers have rightly always been accountable to this House for the performance of the NHS, and always will be. Clinical decisions should always be independent, but when the NHS is the public's top domestic priority—over £140 billion of taxpayers' money is spent on it each year—and when the quality of our healthcare matters to every single citizen and every one of our constituents, the NHS must be accountable to Ministers; Ministers accountable to Parliament; and Parliament accountable to the people we all serve. Medical matters are matters for Ministers. The White Paper provides a statutory basis for unified national leadership of the NHS, merging three bodies that legally oversee the NHS into one as NHS England. NHS England will have clinical and day-to-day operational independence, but the Secretary of State will be empowered to set direction for the NHS and intervene where necessary. This White Paper can give the public confidence that the system will truly work together to respond to their needs.

These legislative measures support reforms already under way in the NHS, and should be seen in the context of those broader reforms. They are by no means the full extent of our ambition for the nation's health. As we continue to tackle this pandemic, we will also bring forward changes in social care, public health, and mental health services. We are committed to the reform of adult social care, and will bring forward proposals this year. The public health interventions outlined in this White Paper sit alongside our proposals to strengthen the public health system, including the creation of the National Institute for Health Protection, and last month we committed in our mental health White Paper to bringing forward legislation to update the Mental Health Act 1983 for the 21st century.

This landmark White Paper builds on what colleagues in health and care have told us, and we will continue that engagement in the weeks ahead, but it builds on more than that: it builds on this party's commitment to the NHS from the very beginning. Eagle-eyed visitors to my office in Victoria Street will have noticed the portrait of Sir Henry Willink, who published from this Dispatch Box in 1944 the White Paper that set out plans for a National Health Service, which was later implemented by post-war Governments.

[Lord Callanan]

Throughout its proud 72-year history, successive Governments have believed in our health and social care system and strengthened it for their times. I believe the NHS is the finest health service in the world. I believe in the values that underpin it: that we all share responsibility for the health of one another. Its extraordinary feats this past year are unsurpassed even in its own proud history. Once again, we must support the NHS and the whole health and care system with a legislative framework that is fit for our times and fit for the future. We need a more integrated, more innovative and more responsive system, harnessing the best of modern technology and supporting the vocation and dedication of those who work in it. This White Paper is the next step in that noble endeavour, and I commend this Statement to the House."

7.05 pm

Baroness Thornton (Lab) [V]: My Lords, I thank the Minister and declare my interests as a former member of a CCG and a non-executive director of a foundation trust.

The Lords Labour health team—myself and my noble friends Lady Wheeler and Lord Hunt—are veterans of the infamous Lansley Bill, which became the Health and Social Care Act 2012. Many noble Lords will take part in the new legislation—including, of course, those on the Lib Dem Benches, who supported the Lansley Bill. I hope that they have come to their senses since then.

We cannot sweep under the carpet, as the Secretary of State and the Minister would have us do, the fact that many of us warned that the huge bureaucracies and implementation costs of something like £3 billion would be a terrible waste of public money and time. They resulted in a loss of initiatives and innovations that lies at the Minister's door. Some indication of lessons learned would be welcome.

We are in the middle of the biggest public health crisis our NHS has ever faced. Staff on the front line are exhausted and underpaid. The Royal College of Nursing says that the NHS is on its knees. Primary care and CCG staff are vaccinating and will be doing so for months ahead. Today, we learn that 224,000 people have been waiting more than 12 months for treatment. The Secretary of State and the Government think that now is the right moment for a structural reorganisation of the NHS. It might be significant that, in the Statement, I cannot find a single explanation of how patients will benefit from this reorganisation. It is all about systems.

Apart from the timing, some very serious matters need to be addressed. This is a Conservative NHS plan, and it shows. Without the money, none of this is worth discussing seriously. Without a workforce plan funded by that money, it will not work. This Bill should not go ahead in its current breadth until the solutions for social care and public health are also set out. Although reform of the Mental Health Act is welcome, it also needs to fit into the wider solution that is missing around social care.

Why does the White Paper not include an option simply to delete Part 3 of the existing Act, thus abolishing the market and competition regimes that created the burdensome bureaucracies and which, it must be said, many CCGs and ICSs have worked hard to get round in recent times? Let us take some time to work out the rest, bring forward the promised social care reforms, let our exhausted NHS recover and have a system co-created with local government.

I suspect that the need to move powers to the centre is a poisoned chalice. Is the Minister proposing simply to dump the Lansley structures and bring back the situation where the Secretary of State has the power of direction over all and any parts of the system? Although I welcome the place-based commitment, it is woefully undefined. This plan ought to be co-owned and co-developed with local government nationally as well as locally, with real parity of esteem. Far more is needed to remove barriers, but the biggest local barrier now is the absence of any solution for social care and public health.

Looking at the NHS's history, we should be sceptical of structural reform necessarily leading to changes in care delivery that make services more integrated and benefit patients. We know from Wales, Scotland and Northern Ireland that integrated care systems have not brought about integrated care. It is necessary to remove system barriers but not sufficient. The bigger challenges lie around culture and vested interests, which are not even mentioned in this White Paper. It is all far too complicated, with health and well-being boards and HealthWatch still in place as well as the proposed new structures. It needs a clear explanation of who controls the money. Can you have two boards at the same time and call it integrated, and be sure where the accountability sits and whether good governance can be assured?

There is little about how decisions are made on who sits on these boards. Is it proposed to bring back independent appointments commissions to guarantee the diversity required? Will staff representatives and patients have a seat where it matters? Surely there can be only one body with the power to set the local strategy and sign off the plans that bring the money. This proposal seems to have many bodies, meaning that governance and accountability are at risk. Having providers, and even independent providers, with a place in the decision-making about resource allocation is clearly unacceptable. If there are to be some contracts awarded by competition, there must be clear rules about who is entitled to compete. These organisations and companies must pay their taxes, for instance, and must offer fair and comparable terms and conditions to their workforce. For example, we know that social enterprises totally fulfil those conditions, but one must ask why we need competitive tendering when you can hand out contracts to chums from the stables, the golf course, and the pub, as we have seen in the last year.

The White Paper is silent on the future of foundation trusts, silent on the role of governors, silent on a whole range of potentially competing governance issues which will have to be resolved. How much acute and tertiary care can be brought into locality-based structures? Integration of primary, community and social care is clear, but, as everyone knows, the acute side is far more complex and a single solution, as proposed in this White Paper, almost certainly will not work. The big players such as teaching hospitals do not fit into

any single locality, or even single ICS, but are vital players. Will there be extra layers of governance above the ICS, which is not defined at all?

We will of course study the legislation carefully when it is published, but the test of reorganisation is whether it benefits patients and communities, brings down waiting lists and times, widens access, especially for mental health care, drives up cancer survival rates and improves the population's health.

Baroness Brinton (LD) [V]: I am grateful to the Minister for the short-notice briefing just as we were rising for recess.

If you had said to most people in the health and social care sector three weeks ago that the Secretary of State for Health and Social Care was announcing a new White Paper, virtually everyone would have assumed that it was the extremely long overdue White Paper on social care, promised by the Prime Minister in his party's manifesto in the 2019 general election and repeatedly further promised at the Dispatch Box over the last 14 months. This Statement refers to it appearing at some point later in the year.

Instead, we have a comprehensive White Paper that focuses, despite the references to care, on the NHS and health systems, undoing some but not all of the 2012 Lansley reforms. This White Paper talks grandly of integrated systems, but you cannot integrate systems if one of the key parties is on its knees as a result of appalling neglect for many years. We agree that our clinicians, managers and associated health and social care staff have great ambitions for moving our health and care structures into the 21st century, and we compliment them, and Ministers, on their ambition, but we have been here before. A decade ago, the Government announced and legislated for a Dilnot-style cost model for social care, which, unfortunately, was later scrapped. We went from a point where all three main political parties were in agreement, but, sadly, the Conservatives withdraw from that agreement. As with manifesto promises on the care sector over the last three general elections, when will the Government start the long-promised cross-party talks to find a solution for the care sector? We remain ready and waiting.

The Statement makes the point that the pandemic has brought the structural difficulties in the care sector into sharp relief. That much is true. With more than 25,000 care home deaths, 10,000 of which have occurred since the lockdown started in January, what will it take for the Prime Minister to make good on his promise to fix social care? Why did it take weeks longer to arrange for residents and staff in care homes to get testing, whereas the NHS had reliable access as soon as it was available? Worse, the care sector's experience of the Department of Health and Social Care taking its orders of PPE out of lorries and diverting them to protect the NHS first—which happened—and the NHS discharging Covid patients into care homes, while reassuring care staff that it was not doing that, has undoubtedly damaged trust. I do not deny that there has been a really strong attempt to get people to work cross-department, but this sort of behaviour has really not helped.

The Statement talks about making Ministers accountable again. A good step would be for the Secretary of State to come to Parliament and explain why he did not publish PPE and other contracts within the appropriate timeframe. There are concerns, too, about cronyism and possibly even corruption. So I say to Ministers: beware of what you wish for.

A further problem of the White Paper in front of us is the need to undo some of the perverse bureaucracies and expenses created by the 2012 reforms. The "internal market" was one such. I cannot see the logic of having a CCG of GPs overriding NICE and a hospital team on a medication pathway because it wants to spend the money elsewhere. The Minister told me that there will be changes and that there will be some representation from trusts, but, from what I hear, it is not enough to leave the clinicians who are expert in charge able to follow the advice of NICE.

The Statement also talks about the portrait of Sir Henry Willink, who published the 1944 White Paper from the Dispatch Box. But Sir William Beveridge's report that led to that White Paper, and then to the post-war Labour Government's creation of the NHS, had a clear structure. The five great evils that Beveridge, as a Liberal, set out could be tackled only by a cross-departmental approach, of which health was a vital component but not the sole driver.

When my grandfather was dean of St Mary's Hospital Medical School, he always used to say that it took only 20 years for the NHS to move to a "national illness service", as demand and costs in hospitals increased exponentially and any budget that was not for hospitals was squeezed. That is why, in the 2012 reforms, we in coalition wanted at least elements of public health moved to local government, where it could more effectively work with the other parts of the system fighting Beveridge's five great evils and, through the health and well-being boards, be accountable at a local level. The examples of the excellent directors of public health during this pandemic have shown that it can and does work, despite the NHS finding it difficult to delegate to them. It is no surprise that inequality is one of the greatest predictors of serious Covid illness or death. Can the Minister reassure us that, whatever happens to public health, it will have its funding ring-fenced to tackle these inequalities?

Next week, we have the Budget, in which the Chancellor will have to face the highest levels of national debt since the Second World War. After the publication of his report, Beveridge expressed concern, saying that the Government should be bold:

> "Now, when the war is abolishing landmarks of every kind, is the opportunity for using experience in a clear field. A revolutionary moment in the world's history is a time for revolutions, not for patching."

Now, too, is the time for such revolutions. This pandemic has left us with a health and social care system that needs not just reform but proper funding. Without it, integration and effective joint working will fail. Can the Minister assure us that there will be bold actions to ensure that any changes are fully funded? Without it, Atlee, Beveridge and Willink will be turning in their graves. Worse, these proposed reforms will fail the UK people, whether patients or just those living in their communities—the very people who need it most.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, I thank the two noble Baronesses enormously for those thoughtful and helpful questions. We are at a very early stage in the process of this important legislation, and the questions from both the noble Baronesses, Lady Brinton and Lady Thornton, are extremely helpful and make a good challenge. I will attempt to answer them as best as I can.

I reassure the noble Baroness, Lady Thornton, that we have all read the debates around the Lansley Bill carefully and learned an enormous amount from them. We greatly look forward to reminiscences from all those who were there in those days. There are some things that the Lansley Bill did that left an important and lasting legacy, and it would be wrong to overlook those. The establishment of Healthwatch and a focus on outcomes was a cultural inflection point in the history of the NHS. The overall importance of commissioning will not be lost in any changes introduced by this Bill. Lastly, this Bill massively builds on the establishment of NHS England in its measures. These are some examples of where the Lansley reforms made huge advances.

However, as the noble Baroness, Lady Thornton, rightly pointed out, some of those reforms have had their day and it is now important to move on to the next round, building on those reforms while fine-tuning some of them. One of the most important areas of development is around collaboration. By that, I mean that the challenge of modern healthcare is to bring a huge amount of expertise and extremely complex resource to bear on individual patient challenges. The sheer complexity of some of the treatments and therapeutics that can benefit the patient requires not just simple clinical analysis by an individual but teams across many disciplines, sites and, sometimes, institutions. It is the bringing together of that huge amount of collaboration that the Bill focuses on.

The noble Baroness is right that we face massive challenges in the period ahead. The vaccination programme is absorbing a huge amount of resource. There is a tremendous backlog in almost every area of the NHS and getting through it is a great challenge. NHS staff themselves are tired and exhausted; they deserve a break. This should not hold us back from doing exactly what the NHS had planned to do before the Covid epidemic, what stakeholders in the NHS repeatedly tell us that they want to do and what the huge amount of engagement that we have done tells us is right to do. I remind her that the core of the White Paper is the proposals made by the NHS to the Government in September 2019 to help the NHS deliver its long-term plan.

NHS England and NHS Improvement carried out a huge engagement process before making those recommendations. That exercise had over 190,000 written responses from individuals and organisations representing different parts of the health and social care system. Those recommendations were supported and endorsed by key leaders across that system, including NHS Providers, UNISON, Healthwatch, the Local Government Association, the Royal College of Nursing and many others. The recommendations made by NHSEI also built on recommendations made by the Health and Social Care Select Committee in June 2019.

The Bill will have been thought about and prepared for over many years. It is the thoughtful application of important reforms and therefore deserves the close analysis and support of noble Lords. There are tremendous benefits to patients. The noble Baroness, Lady Thornton, specifically asked what the tangible benefits are, and I will pull out three in particular.

First, there are some specific public health measures in the Bill. As the noble Baroness, Lady Brinton, rightly raised—I will come back to it, in a moment—public health is central to the outcomes of the Bill. Fluoridation is the iconic measure, but a thick red thread of public health runs throughout the Bill. Secondly, the constitution of the Healthcare Safety Investigation Branch—HSIB—will, with statutory muscle, bring about the important investigatory element to promote the patient safety agenda, which my noble friend Lady Cumberlege wrote about in her report. Thirdly, the bringing together of GP and social care services into integrated care systems will bring much closer the decisions about patients which often cross barriers that, I am afraid, are huge obstacles to effective care today.

I will address the question of social care directly because the noble Baronesses, Lady Brinton and Lady Thornton, challenged me on this point: why have we not in the Bill brought about a wholesale financial rebooting of adult social care? The measures on adult social care in the Bill are just one aspect of a wider reform agenda. Our wider objectives for social care are to enable an affordable, high-quality and sustainable adult social care system that meets people's needs while, supporting health and care in joined-up services around people. The Prime Minister has been crystal clear about his agenda for reform. A broad range of options are being explored on how best to accomplish these reforms and we want to ensure we get that reform right. Engagement with the sector and the public will be an important part of that.

We are still considering a number of funding reform options. However, the leading options, such as a cap and floor, are already provisions in the Care Act so they require only secondary legislation to enact. For this reason, we do not require anything on charging reform to be included in the Bill. However, the Bill should be considered as an important paving stone to wholesale social care reform.

I entirely agree with the noble Baroness, Lady Brinton, that culture is important. We are absolutely committed to putting social care in exactly the same hierarchy as the NHS. We believe that local authorities have a central role in the provision of social care; that is envisaged to remain the same. The noble Baroness, Lady Thornton, asked specifically: who will sit on the boards? That is exactly the kind of question that I look forward to debating here in the House and engaging on with noble Lords.

The noble Baroness, Lady Thornton, asked about competition, and she and the noble Baroness, Lady Brinton, raised deep-seated and heartfelt concerns about cronyism and corruption. I take those concerns very seriously. Huge amounts of taxpayers' and voters' money have been employed during the pandemic in the fight against Covid, and very large sums of money were spent on PPE in circumstances where there was a

huge rush and difficult arrangements were being put in place. However, I remind both noble Baronesses that when they attack the Government and make accusations of cronyism, chumocracy and corruption but have no foundation for those attacks, they are interpreted as attacks on the very NHS and social care staff who have worked extremely hard to procure the right services and products, who have the interests of patients in mind, and who are working so hard to save lives. Attacks on the integrity of the system are extremely damaging to their morale and the integrity of that system. I kindly ask the noble Baronesses, Lady Thornton and Lady Brinton, who have made these attacks repeatedly over the last few months, to think very carefully about the way in which they make these accusations.

In particular, I will address the question raised by the noble Baroness, Lady Brinton, of PPE being taken from lorries that was destined for social care and sent instead to the NHS. If she indeed has evidence that such a thing happened, I would be very grateful if she would write to me. But if she does not, I would be extremely grateful if she did not raise this anecdote again, because it is a damaging image which hurts very much those who work in social care and the NHS, and is not necessarily fit for a debate such as today's.

In terms of the PPE contracts that were the subject of a recent action in the law courts, I will repeat the sentiments expressed by my right honourable friend the Secretary of State for Health. Every waking moment of every day for everyone involved in the procurement of PPE was dedicated to getting the right kit to people on the front line to save their lives. If the paperwork was done two weeks late, that is an entirely proportionate and reasonable consequence of a very difficult situation, and seeking to make political capital out of an administrative oversight does not seem at all proportionate to the situation.

This is an extremely exciting Bill we have before us. I very much look forward to debating it in this Chamber. I am extremely grateful to the noble Baronesses, Lady Brinton and Lady Thornton, for their questions.

The Deputy Speaker (Lord Bates) (Con): My Lords, we now come to the 20 minutes allocated for Back-Bench questions. I ask that questions and answers be brief so that I can call a maximum number of the 16 speakers who have asked to ask questions in response to this Statement.

7.30 pm

Baroness Watkins of Tavistock (CB) [V]: My Lords, I declare my interests as outlined in the register and broadly welcome this paper. I particularly applaud the removal of the need for competitive tendering and the introduction of the discharge to assess model, which I and many other professionals have long advocated. However, could the Minister explain why such extensive powers are planned for the Secretary of State prior to the reforms of social care coming before Parliament? Why can they not come concurrently? He has partly just explained that, but it would be much better if we waited and did the two things together. Section 5.153 of the White Paper is designed to widen the scope of Section 60 of the Health Act 1999 to provide further powers enabling the Secretary of State to

"make a large number of changes to the professional regulatory landscape through secondary legislation."

I seek assurance that there will be ample opportunity to debate this latter issue during the passage of the Bill.

Lord Bethell (Con): I am extremely grateful to the noble Baroness, Lady Watkins, for her generous remarks on competitive tendering and discharge to assess. These are examples of where we have listened to stakeholders and those in the NHS who have called for changes. In terms of the powers given to the Secretary of State and the link with social care, it is worth remembering that this Bill is a stepping stone towards other changes. Changes to social care funding can take place largely without any legislative change; they can be introduced by secondary legislation. Changes to the funding model in social care are a matter for a very large engagement process that will include other parties, as the Prime Minister has outlined, and will include very considerable engagement with stakeholders.

In the meantime, we are seeking to correct an overreach in the seclusion and mandation of the NHS to give the Secretary of State the kinds of powers that are reasonable in a parliamentary democracy in the governance of such a large and important national institution. Those powers are to be used with restraint and a degree of circumscription, but they rebalance the political geography of the NHS to give it full accountability. As such, they give the kind of authority the Secretary of State needs to institute the kinds of social care reforms I know the noble Baroness, Lady Watkins, is interested in.

Baroness Neville-Rolfe (Con) [V]: While the costs of reorganisation are certain, the expected benefits may or may not be realised. The fate of the Lansley reforms is a lesson for us all. The country will judge the performance of the NHS over the coming decade in the light of this truth. Will the Minister specify objectives against which the new reforms can be assessed?

Lord Bethell (Con): My Lords, the objectives outlined in the White Paper are reasonably clear. The four headline objectives are to make it easier for different people in the system to join up to find ways to address complex issues, to remove unnecessary bureaucracy, to empower local leaders to make the best decisions for the populations they serve and to facilitate a range of other improvements held back by existing legislation.

This is a large Bill with a very large number of measures. It is not, and does not pretend to be, unified by a single thought or held together by an ideology or motivation of any particular philosophy. It is the application of a very large number of recommendations that have come out of a huge engagement with the NHS family, patients and other stakeholders. As such, it is a pragmatic, thoughtful and restrained approach to an important piece of legislative housekeeping of this much-loved healthcare institution.

Baroness Pitkeathley (Lab) [V]: My Lords, I share the concerns of my noble friend Lady Thornton about these proposals, but I take issue tonight with one particular assertion in the Statement that health and social care are

[Baroness Pitkeathley]
"part of the same ecosystem."—[*Official Report*, Commons, 11/2/21; col. 506.]
As far as patients are concerned, this has never been the case as healthcare is free at the point of use whereas social care is and always has been charged for. In a debate in your Lordships' House on 28 January, to which the Minister replied, virtually every speaker from all sides of the House said that this is the anomaly which must be addressed. Will the Minister add to his previous remarks about money and charging issues and assure the House that the Government will address this issue in the long-promised reforms of social care and recognise that warm words about integration and collaboration are simply not enough?

Lord Bethell (Con): The noble Baroness is right that there are distinctive qualities to social care and medical care, but the lived experience of most patients and residents is that those living in social care are very often heavy consumers of the NHS. As far as most of them are concerned, the support and treatment they are given needs to be much more closely linked. For instance, it is a strange anomaly that many living in residential social care have a completely different budget and sometimes completely different staff providing their medical treatment and their care treatment. This is not a functional distinction that we are seeking to overturn; what we are seeking is to get those teams of people and the decisions made about the care of individuals working much more closely together. We are not seeking to introduce a revolution in the funding of social care, and the financing of social care by local authorities and private individuals will continue, but we would like to see the distinction between social care and NHS medical care become more seamless, more joined up and, therefore, more effective.

Lord Kakkar (CB) [V]: My Lords, I draw attention to my registered interests. The justification for any reorganisation of the health and care system must be to improve patient and population outcomes. The current system, which has been unable to deliver the benefits of integrated care, is heavily regulated on the basis of distinct institutional boundaries and care settings. How do Her Majesty's Government propose to address the regulatory impediment to the successful delivery of integrated care as part of the proposed reorganisation?

Lord Bethell (Con): My Lords, the noble Lord is entirely right that the regulation of both clinical care and social care is critical and key not only to good performance by both sectors but to the way in which they work together. That is why we will look at the CQC and its role in social care regulation. We will seek to enhance the way in which the CQC can look deeply into social care to set higher standards and to ensure that, when it comes to integrated care, social care is stepping up to the challenge as best it can.

Lord Grade of Yarmouth (Con) [V]: My Lords, the front line of social and community care—indeed the whole of the NHS—begins with local pharmacies, which, as the Government well know, are in dire financial straits, closing down at a rate of four or five every week. I ask my noble friend the Minister: is it the Government's policy to wait until these vital community services have all gone bankrupt before they act?

Lord Bethell (Con): My Lords, I start by paying an enormous tribute to the 11,251 community pharmacies for the work they do day in, day out, and in particular their contribution to the vaccine rollout. I remind my noble friend that £370 million has been made available by the Government in increased advance payments to support community pharmacies with cash-flow pressures caused by the pandemic. The community pharmacy contractual framework—the five-year deal—commits £2.5 billion annually to the sector. Non-monetary support has also been provided in recent months, such as the removal of some administrative tasks, flexibility in opening hours, support through the pharmacy quality scheme, and the delayed introduction of new services. I am afraid I do not quite recognise the figures my noble friend cited on the closure of pharmacies, but if he would like to write to me, I would be very glad to look into them more closely.

Lord Brooke of Alverthorpe (Lab) [V]: My Lords, the White Paper refers to the NHS problems with obesity. I make no apology for introducing this topic, because obesity is one of the major underlying causes of Covid deaths, but it is rarely raised in the direct communication between the Prime Minister and Professor Whitty and the population in the No. 10 conferences. As World Obesity Day approaches on 4 March, will the Minister speak to the Prime Minister or Professor Whitty and see if we could have this fundamental topic raised as an indicator that this is where cost savings can be achieved and we can get better health, if we work on it?

Lord Bethell (Con): The noble Lord is entirely right: obesity is not only a major issue, it is specifically cited in the Bill, where we have clear measures to try to address it. I do not need to raise it with the Prime Minister or the CMO because they both take it incredibly seriously. The Prime Minister has spoken movingly about his own challenge when he caught Covid—the five stone by which he feels he was overweight, the impact that had on his life chances, and how close to death he came because of obesity when he went into hospital. That was a metaphor for the whole country, and that is why we have launched a major obesity strategy in respect of marketing and advertising. It is why we remain committed to the obesity strategy, and more measures will be rolled out during the course of the year. I am extremely grateful to the noble Lord for reminding me about World Obesity Day on 4 March, which we will be marking very seriously with a publicity campaign.

Lord Scriven (LD) [V]: My Lords, nearly 75% of NHS expenditure goes on hospital and ambulatory care. Will the Minister explain how the proposed reforms will, in reality, lead to the redirecting of significant hospital sunk costs into ill health prevention and improving population health outcomes, as implied in the White Paper?

Lord Bethell (Con): My Lords, we are putting considerable resources into hospital rebuilding, with 40 hospitals being built over the course of the Parliament; that is a major investment programme. The investment in population health comes out of different budgets. We are looking at how we will use ICSs to bring population health and responsibility for the outcomes of popular age and health metrics much more closely to GPs and hospitals. This oversight needs to be corrected, and it is one of the primary objectives of this Bill.

Lord Naseby (Con) [V]: My Lords, speaking as the husband of a former full-time GP, I ask whether the Minister is aware that neither general practice nor community care are meeting patients' needs today and they require a total review. Also, is it fully understood by government that there is insufficient capacity in our current hospitals and that we need to build more? Having said that, I say that the vaccination programme is brilliant—and I place on record my sincere thanks, from the bottom of my heart, to the NHS staff at Bedford Hospital for saving my wife's life.

Lord Bethell (Con): I will indeed share my noble friend's tribute to the vaccination programme and to Bedford Hospital for saving Lady Naseby's life, for which we are all enormously grateful. However, I would probably leave his company on his remarks on GPs; they are extremely effective in the service they provide to their local communities. The patient satisfaction surveys do not support his contention that there is a massive gap there.

We are committing to building new hospitals in order to expand our capacity, but the essence of the measures in this Bill is more about prevention, population health and supporting better outcomes for the kind of public health measures around things such as obesity that ensure that people do not have to spend their time in hospital when they feel ill and, instead, have an early-stage intervention.

Lord Curry of Kirkharle (CB) [V]: My Lords, my interests are recorded in the register. This White Paper and proposed Bill are extremely welcome and long overdue, and I very much support the direction of travel. I have been curious and interested to read that reducing unnecessary bureaucracy in the process of change is a key plank of the White Paper. I am interested in how the Minister expects this to be achieved; as a former chair of the Better Regulation Executive, I know how difficult this is. Will there by some form of oversight to ensure that this does take place, and some way of monitoring that fact as well?

Lord Bethell (Con): My Lords, the noble Lord makes a very wise observation. The challenge of reducing bureaucracy has confounded many Ministers in the past, and I would not want to suggest in any way that this is an easy challenge. However, it is our belief that, by getting those involved in primary, secondary and social care, and in public health, working more closely together in integrated care systems, with a culture of collaboration and clearer accountability for the outcomes of the populations in their areas, we can reduce the friction of paperwork, duplication and oversight that has cost the health system dearly, and can build a more effective way of providing healthcare services for individual populations.

Baroness Armstrong of Hill Top (Lab) [V]: My Lords, much of the laudable ambition of this White Paper is in the integration of the two sectors, but the truth is that you cannot have integration of health and social care without parity of esteem. With a social care system that the Government themselves have called dysfunctional, we know, certainly from all the evidence of Covid, that there is no such equality between the two structures. The legislation to implement this White Paper—I fear the Minister has it ready, considering the number of times he has talked about a Bill tonight—should not come before the desperately needed reform of social care.

The Secretary of State voted for the Lansley reforms more than 20 times in the Commons and they are what he now wants to undo. Unless this integration becomes a real possibility through dealing with social care first, this will look and feel like a vanity project for the Secretary of State. I therefore ask the Minister to assure us that we will know what will happen in social care before he brings a Bill on structural change of the National Health Service to this Chamber.

Lord Bethell (Con): My Lords, I agree with the noble Baroness that there is a challenge around parity of status. The pandemic has vividly brought alive the challenging circumstances of those who work and live in social care. It is a tremendous tribute to the British people that they have given the lives of the elderly and the vulnerable such a high priority by putting the life of the country on hold to protect the health of the vulnerable and elderly, and that they have thought carefully and thoughtfully about those who live in either residential or domiciliary social care, for instance. It has brought alive for the whole nation the circumstances of those who live in social care.

I have heard loud and clear those in this House who have made the case for those who work in social care, often in low-paid roles but with a huge amount of responsibility and a massive task ahead of them, to receive better training, have clearer career paths, and, as the noble Baroness rightly points out, have a higher status. However, I do not agree with her that the sequence should be financial reform followed by structural reform. With this Bill, we are trying to put in the correct structural circumstances for social care so that it has parity with the NHS and a collaborative jigsaw fit with those in clinical and public health roles. Therefore, when the financial reforms are put in place, they will be done most effectively and with the largest impact.

The Deputy Speaker (Lord Bates) (Con): My Lords, I am afraid that the time allowed for Back-Bench questions has now expired, with apologies to the noble Lord, Lord Vaizey, and the noble Baronesses, Lady Barker, Lady Stuart, Lady Donaghy and Lady Jolly, that I was not able to call them.

House adjourned at 7.52 pm.