Vol. 811
No. 209

Tuesday
23 March 2021

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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

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

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

House of Lords

Tuesday 23 March 2021

The House met in a hybrid proceeding.

Noon

A minute's silence was observed in memory of those who have died and those who have been bereaved as a result of coronavirus.

Prayers—read by the Lord Bishop of Newcastle.

Arrangement of Business

Announcement

12.08 pm

The Lord Speaker (Lord Fowler): 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.

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

Folic Acid

Question

12.09 pm

Asked by ***Lord Rooker***

To ask Her Majesty's Government, further to the reply from Lord Bethell on 3 September 2020 (HL Deb, cols 444–5), whether they have reached a conclusion on the findings of their consultation on the proposal to add folic acid to flour which closed on 9 September 2019.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, I pay tribute to the noble Lord, Lord Rooker, for his stamina on this important issue. Since the consultation on folic acid in flour closed, there has been considerable progress on this policy work, although this has been hampered by Covid. I commit to bringing an update to the House as soon as I reasonably can.

Lord Rooker (Lab) [V]: I thank the Minister for his Answer but, as he will expect, it is not good enough. Notwithstanding the Covid pressure on the health department, it found time and resources to produce an NHS reform White Paper, so the priority was organisation, not preventive health. Since the Minister answered the previous Question on this in September, on average there will have been 500 pregnancies affected by neural tube defects, resulting in more than 400 terminations, and around 80 live births of babies with a lifelong disability. Fortification can cut these figures by up to 50%. My last question is: how will Ministers face the *Daily Mail*, which for 15 years has supported the scientists advising that this policy be adopted? I shall be back next month, I give notice.

Lord Bethell (Con): My Lords, I pay tribute to both the stamina and the passion with which the noble Lord puts his case. He puts it extremely persuasively. We have worked hard to engage with policymakers on this, meeting mill owners, including artisanal mill owners, and those who are engaged in the supply of food. The supply of food has been a difficult area in the last year. It is difficult to lay this extra burden on the trade. It is extremely open to the option and we remain optimistic that this is a route we can walk down. There has simply not been an opportunity to make that commitment as yet, but I will update the House as soon as I possibly can.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, yesterday, the Minister said that the health of the nation had to change emphatically. The recent NHS White Paper, to which my noble friend Lord Rooker referred, actually promised a more direct government role in improving people's health. For instance, as president of the British Fluoridation Society, I was delighted that the Government are now committed to fluoridating water supplies. Given that, would it not be a very important indicator if the Government were to announce very shortly that they are going to go ahead with this?

Lord Bethell (Con): My Lords, the noble Lord blows my own words in my face very effectively indeed. He is entirely right—we are committed to preventive medicine in the round. Fluoridation is one graphic example of that and the use of folic acid to address neural tube defects is another good example. That is why we did the consultation in 2019 and are considering the responses, and it is why I have made the commitment to return to the House once we are able to give an update.

Lord Northbrook (Con) [V]: My Lords, while I wholly support measures for larger commercial millers to minimise the risks associated with folic acid deficiency in vulnerable groups in society, I ask that the Government exempt smaller, traditional artisan mills from having to have to mix folate into flour. These mills represent only 0.1% of flour production and it would be prohibitively expensive for them to purchase the necessary machinery and to adapt what are often listed buildings for this change. Also, some customers deliberately seek out traditional flour, free from additives.

Lord Bethell (Con): My noble friend makes the case extremely well. I reassure him that, in February 2020, officials from the DHSC and Defra met representatives from the Society for the Protection of Ancient Buildings' Mills Section and the Traditional Cornmillers Guild and visited windmills and watermills to understand at first hand the practicalities around fortification for those premises. The commitments made on those visits will, I think, build a policy that takes into account the very special needs of those important artisanal trades.

Baroness Jolly (LD) [V]: My Lords, I commend the noble Lord, Lord Rooker, for his tenacity on this issue, and fail to understand why successive Governments have not recommended the addition of folic acid to flour, as well as fluoride to water, following many western

[Baroness Jolly]
Governments. For those who live on junk food, folate deficiency can turn into a serious disorder and, if left unchecked, can be fatal. In addition, the possible damaging effects to the foetus during pregnancy make this a no-brainer. The consultation closed 18 months ago, so when will the Minister bring the update to the House?

Lord Bethell (Con): The noble Baroness puts the case well. It is an issue that I feel personally committed to; a cousin of mine was born with a neural tube defect many years ago, and the effects of that hit my family extremely hard. I recognise the problem of unplanned pregnancies and the need to find a way to get folic acid to people who were perhaps not intending to have a pregnancy. We take this matter extremely seriously, and I commit to returning to the House when we have an update on it.

Baroness Altmann (Con): I encourage my noble friend to accelerate this initiative of folic acid supplementation, which the House can see clearly he would very much welcome. But can he also comment on other preventive measures to improve the nation's wider health?

Lord Bethell (Con): My Lords, I think my noble friend alludes to the rollout of the vaccine, which has been the consummate preventive medicine programme that the country has ever seen. It is, I hope, an inflection point in the whole country's approach to its healthcare. We have for too long emphasised late-stage, heavy-duty interventions, and we have not focused enough on preventive early-stage interventions. Folic acid is a really good example, as are the vaccine and fluoridation, and the kinds of population health measures we hope to bring in will address all of those.

Baroness Finlay of Llandaff (CB) [V]: I too commend the noble Lord, Lord Rooker, for his tenacity on this important aspect. Do the Government recognise that 90% of women of childbearing age have low folate levels? If these were corrected by the dietary addition of folate to flour, we could see up to a 58% decrease in neural tube defects. These are massive numbers and cannot be ignored. The clock is still ticking and there are women getting pregnant today who have low folate levels.

Lord Bethell (Con): The noble Baroness's figures are not quite the same as the ones I have in front of me. The mandatory fortification of bread flour with folic acid in Australia resulted in a 14.4% overall decrease in NTDs—although that is still a really important number, and if we are running at 1,000 a year in the UK, 50% of which are due to unplanned pregnancies, there are clearly important grounds for this measure to be considered seriously.

Baroness Wheeler (Lab): My Lords, last year, a year after the consultation deadline closed, the Minister repeated his promise that, despite seriously delayed government decision-making, major efforts were being made to step up the raising of awareness of the importance of taking folic acid supplements, particularly among at-risk groups such as Afro-Caribbean women and women under 20. Can the Minister tell the House what actions have been taken? What measurable impact has awareness raising had among these at-risk groups and on ensuring that women whose pregnancies are unplanned—as we have heard—are not missing out on these vital nutrients in the early stages of their pregnancy?

Lord Bethell (Con): I am grateful to the noble Baroness for reminding me of my words on that matter. I will endeavour to find an answer to her very particular question. I worry that the very large amount of engagement we have had to do on Covid, particularly around marketing, has drowned out some of the messages that we have put through to people on these very specialist issues. I will find out from the department what progress has been made and will be glad to update her.

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, Britain has a relatively high rate of preventable birth defects linked to low folic acid—around 1,000 pregnancies are affected every year. The Government are aware of this but do nothing, and it is scandalous that this tragedy could be prevented by the mandatory fortification of flour with folates. The burden on mill owners appears to be more important to the Government. When are the Government going to stop letting women down in this way at one of the most vulnerable times of their life?

Lord Bethell (Con): My Lords, I accept the passion with which the noble Baroness has made her case, but it is not fair to say that we have done nothing. The consultation is in place, policy-making is being undertaken and the engagement with mill owners is well progressed. I am hopeful that we can make progress in this area.

Lord Balfe (Con): My Lords, since I entered this House at the end of October 2013, there have been 14 Oral Questions on this subject. I had four years as the president of the British Dietetic Association, which came and went with us pressing for government action. On 3 September last year, the Minister said that

"I am not in a position to give him"—

that is, the noble Lord, Lord Rooker—

"the date he wishes, but we will come back to the House and answer his Question in due time."—[*Official Report*, 3/9/20; col. 445.]

When on earth is "due time" going to arrive?

Lord Bethell (Con): My Lords, I accept the challenge from my noble friend, who articulates his point extremely well. I can see in front of me the timeline on this issue. I can only say that we are trying to approach this in a way that creates a durable, long-lasting solution that is endorsed by mill owners, paediatricians and all the relevant stakeholders. It takes time to build that sort of consensus but we totally recognise the importance of this issue—1,000 NTD deaths a year is far too many. I undertake to put pressure on the department to ensure that this issue makes progress as soon as possible.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed.

Youth Justice System

Question

12.20 pm

Asked by ***Baroness Sater***

To ask Her Majesty's Government what steps they are taking to enable children who commit offences to be tried and sentenced according to the youth justice system, and in particular, those who turn 18 before their first court appearance.

Baroness Scott of Bybrook (Con): My Lords, the courts are working to prioritise trials involving youth defendants, particularly when they involve a child who is about to turn 18. When a child turns 18 after an offence is committed but before they appear in court, they must be tried as an adult. However, guidelines state that in these cases courts should use as a starting point a sentence that would have been given at the time the offence was committed.

Baroness Sater (Con) [V]: My Lords, delays, backlogs and where you live can mean that a defendant who commits an offence under the age of 18 but who does not attend their first court appearance before their 18th birthday is treated differently from those who get to court before they turn 18. Through no fault of their own, those defendants miss out on receiving the valuable specialist youth court provision and sentences, especially referral orders, which can be vital in the rehabilitation and turning around of a young person's life and which I have witnessed as a former youth magistrate. Will the Government consider reviewing this unfair anomaly?

Baroness Scott of Bybrook (Con): My noble friend is correct that under current legislation, the date of the hearing determines whether the defendant appears in a youth court or in an adult court. However, she should not draw the wrong conclusion. Measures exist in adult courts to support defendants who are particularly vulnerable, and throughout court proceedings consideration is given to the age of the defendant. Like referral orders in youth courts, community order requirements for adults can also be tailored to address an offender's needs and support their rehabilitation. Finally, HMCTS is working to increase the throughput of cases in the courts and, while listing is a matter for the judiciary, youth cases have been prioritised to ensure that they are listed as expediently as possible, especially when a child is almost 18.

Lord Bourne of Aberystwyth (Con) [V]: My Lords, the most recent official data show that 1,400 offences a year are committed by children who turn 18 prior to the trial. That number is rising, to some extent understandably, because of Covid delays, which means that the flexibilities and some of the specialities of the youth justice system are lost to these defendants. It is a serious issue. What are the Government doing, particularly with regard to the backlog because of Covid?

Baroness Scott of Bybrook (Con): The youth justice working group, chaired by the judicial lead on youth justice, has been set up exactly to reduce the impact of Covid-19 delays on the youth court and trials involving youths in the Crown Court. This group continues to meet regularly to carefully monitor the youth recovery programme, and its highlight for this year is to continue to make sure that the lists are as low as possible for a child, particularly if they are just about to turn 18.

Baroness Butler-Sloss (CB) [V]: My Lords, are the Government considering raising the age of criminal responsibility from 10 to 12? These 10 and 11 year-olds usually come from seriously dysfunctional backgrounds and need help in the care system rather than convictions or findings of guilt.

Baroness Scott of Bybrook (Con): I have no information that the age will rise from 10 to 12 but that may be debated in the Police, Crime, Sentencing and Courts Bill, which is in the other place and will be coming to this House shortly.

Baroness Whitaker (Lab) [V]: Not enough is known about the number or experience of Gypsy, Traveller and Roma young people in the criminal justice system except that the number is significantly large in relation to their very small population. Is the Minister aware of a recent Justice report on racial disparity in the experience of young people in the criminal justice system? In particular, would she endorse its recommendation that the Ministry of Justice collects and makes available all data to a much greater extent, and endorse recommendation 16—that the criminal justice agencies should improve their relationship with Gypsy, Traveller and Roma community groups and follow the Traveller Movement recommendation on how to do so?

Baroness Scott of Bybrook (Con): The noble Baroness is correct about the report, which I read for another Question I was answering quite recently. Absolutely—every effort should be made by the whole of the judicial system to work with the Gypsy, Traveller and Roma communities. We want a justice system that is fair and open and where no person suffers discrimination.

Lord Dholakia (LD) [V]: My Lords, the noble and learned Baroness, Lady Butler-Sloss, is right to raise the question of the age of criminal responsibility, which at 10 years is the lowest in this part of the world. Can the Minister look at the Private Member's Bill which I promoted previously in this House, and which had a safe passage, to see what lessons could be learned to ensure that young people do not end up in the criminal justice system?

Baroness Scott of Bybrook (Con): The noble Lord is absolutely right: we need to keep an eye on timings and where these communities are. However, we also need to make sure that we do everything we possibly can through education and support to make sure that children do not come into the system in the first place.

Lord Ponsonby of Shulbrede (Lab) [V]: My Lords, the backlog in the national referral mechanism was growing before the first lockdown and has grown at a faster rate during the past year. How long can youths and youth courts expect to wait for an NRM review, and does the Minister agree that excessive waits are not in the interests of justice or of the youths concerned?

Baroness Scott of Bybrook (Con): The Government are working to achieve quicker and more certain decision-making for victims of modern slavery but also youths. The Single Competent Authority was launched in April 2019 to handle all national referral mechanism cases and to provide high-quality, timely decisions for victims. There has been a significant ongoing recruitment of SCA decision-makers to address timescales. There are no set timescale or target decisions to be made; the SCA can make a conclusive grounds decision only when sufficient information has been made available by the parties involved in all cases.

Baroness Jones of Moulsecoomb (GP): My Lords, part of the problem with all the delays and children becoming adults before they go to court is because the Conservative Government massively cut funding to courts. The Minister comes from the Ministry of Justice but this is a clear injustice. What will the Ministry of Justice do about it?

Baroness Scott of Bybrook (Con): I think I have answered this question once before. HMCTS is working to clear the youth court backlog at pace. The magistrates' courts, where most youth cases are heard, disposed of more cases than they received from August 2020, which has led to a reduction in the outstanding caseload.

Lord Ramsbotham (CB) [V]: [*Inaudible*]—the Minister to my noble and learned friend Lady Butler-Sloss indicates that the important question of the age of criminal responsibility may be raised in the Bill which is at present in the other place.

Baroness Scott of Bybrook (Con): I do not think I heard the whole question from the noble Lord, but if it is about the age in law, I have answered that question before. If that is an issue, the Police, Crime, Sentencing and Courts Bill, which is coming from the other place shortly, will be the place to discuss it fully in this House.

Lord Browne of Ladyton (Lab) [V]: My Lords, when there is an admission of guilt and the offender is under 18 at the date of disposal, there is a strong presumption in favour of diverting to an out-of-court disposal. This does not apply if the offender reaches their 18th birthday after the crime occurred but before their first court appearance. Does the Minister not agree that that is arbitrary, unjust and probably not in the public interest? How difficult would it be to correct the anomaly?

Baroness Scott of Bybrook (Con): The noble Lord has a point here, but the youth courts look after very young children, who have very different needs from young adults. Special measures exist in the youth courts that are intended to protect young children. Throughout court proceedings, however, consideration is given to the age of the defendant, whatever it is, including in the adult courts. It is important that we realise that there are systems within the adult courts to look after these young people. But the noble Lord is correct in saying that this is an issue that needs to be discussed, and I suggest that it should be discussed in the passage of the forthcoming Bill.

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

Social Media: Offensive Material

Question

12.31 pm

Asked by ***Lord Faulkner of Worcester***

To ask Her Majesty's Government what steps they are planning to take to remove anonymity from persons who post racist and other similarly offensive material attacking (1) sportspeople, and (2) other high profile public figures, on social media sites.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, the Government are clear that being anonymous online does not give anyone the right to abuse others. We are taking steps through the online harms regulatory framework to ensure that online abuse is addressed, whether anonymous or not. The police already have a range of legal powers to identify individuals who attempt to use anonymity to escape sanctions for online abuse. We are working with law enforcement to review whether the current powers are sufficient to tackle illegal anonymous abuse online.

Lord Faulkner of Worcester (Lab) [V]: Can the noble Baroness be more specific about what the online safety Bill will achieve? Presumably, it will force social media companies to take down the racist and sexist rantings of some of their customers and lead to prosecutions where the abuse goes far beyond any free-speech justification. How much has happened since the Culture Secretary's welcome statement on 8 February that those companies can start showing their duty of care to footballers today by weeding out racist abuse now, and will football be a specific priority in the hate crime unit looking at online discrimination against protected characteristics, as specified under the 2010 Equality Act?

Baroness Barran (Con): The Government are absolutely committed to making the internet a safe place for all, and of course that includes footballers and other public figures, but it also, very importantly, includes children, other vulnerable people and the general public. A key part of making this work is the duty of care that we will be imposing on social media companies, with clear systems of user redress and strong enforcement powers from Ofcom. I am happy to take the noble Lord's suggestions regarding the place of footballers within the hate crime unit back to the department and, in relation to the equalities issue which he raises, he will be aware that it was very clear in the 2019 social media good practice code that social media companies are expected to have regard to protected characteristics.

The Lord Bishop of Oxford [V]: My Lords, the requirement to love our neighbours as ourselves makes practical demands of our online behaviour: not only what is posted but also what is endorsed, what is given

the oxygen of repetition and what is tolerated. The digital common good is threatened from both sides: by those who post racist and offensive material and by some social media sites that craft algorithms to curate, propagate and perpetuate in order to maximise income. So will the Government give urgent consideration to implementing a code of practice for both hate crime and wider legal harms, perhaps along the lines of the model code that Carnegie UK and a number of other civil society organisations, including my office, recently co-drafted?

Baroness Barran (Con): The right reverend Prelate raises very important points. He will be aware that the Law Commission is reviewing the legislation in relation to offensive online communications to make sure that it is fit for purpose, and that its final recommendations will be made this summer. We are also working more widely with law enforcement to review whether we have sufficient powers to address illegal abuse online.

Baroness Verma (Con) [V]: My Lords, will my noble friend include, in the reporting and duty of care on social media companies, harassment and bullying in the way that we have seen happen when people break off relationships or are threatened because they do not agree with a particular point of view? I have heard from a number of people who have been very frightened of going back on to social media because of the attacks that they have had to endure. Will she also make sure that media companies have enough resources to police and that the required processes are in place to do so?

Baroness Barran (Con): My noble friend raises important points about harassment and bullying. The pile-on harassment to which she refers is one of the specific issues that the Law Commission will be making recommendations on. She mentioned the resources of social media companies, and we are less concerned about them. We feel that they have ample resources, but we will also make sure that Ofcom is fully resourced to respond.

Baroness Prashar (CB) [V]: My Lords, although we need to protect freedom of speech, urgent action is needed to deal with abuse of free speech on social media. Does the Minister agree that social media outlets should be required to remove material that contravenes race hate and libel laws and limit how many times messages are forwarded, as those who post racist and other offensive materials are not entitled to have their voices amplified?

Baroness Barran (Con): The noble Baroness is right: what is illegal offline should be illegal online, and it is very clear that the social media companies should remove that content. Where there is harmful but legal content, they need to have very clear systems and processes to make sure that it can be removed quickly.

Lord McConnell of Glenscorrodale (Lab): My Lords, this is not just a problem for famous people. If anything, it is a much more serious problem for members of the public. For example, mothers campaigning in Scotland to get schools reopened last year were attacked by anonymous cybernats and their children were threatened via direct messages on Twitter. Twitter is a real problem here, but there is a very simple solution, which is for Twitter or the Government to ban anonymous accounts. That would stop the abuse, it would ensure that anybody who tries to be abusive or threatening can be prosecuted and it would be a simple measure for those running Twitter, given the scale of their operation now, to introduce. Will the Government call them in, insist on it and, if they will not do it themselves, do it for them?

Baroness Barran (Con): The noble Lord is right to raise the issue of the general public and the troubling example that he just shared with the House. However, banning anonymous accounts is not as simple as he suggests. They provide important protection for a wide range of vulnerable people, as well as journalists' sources and others—so these are complex issues that we aim to address through the Bill.

Lord McNally (LD) [V]: My Lords, I am interested in the Minister's comment that the department is in discussions with the police about the use of existing powers. Would it not be a good idea for the police to pursue a number of high-profile cases of bullying of children, rampant racism or threats to our democracy under existing powers until we get the proper legislation in place?

Baroness Barran (Con): Just to be clear, I was speaking on behalf of the Government in conversation with the police. The noble Lord will be aware that the primary responsibility for this matter sits with the Home Office. The police are independent in how they pursue these cases.

Baroness Fookes (Con): My Lords, I share the concern of the noble Lord, Lord McConnell, about ordinary people who are humiliated and persecuted. May I suggest to my noble friend that, when looking at strengthening the law, the Government look at increasing penalties on media companies that do not obey the laws? Nothing has more effect than hitting the pocket.

Baroness Barran (Con): My noble friend is quite right and the framework will aim to protect all users, particularly children and vulnerable users. As for hitting the pocket, she may be aware that the maximum fine that can be levied in future will be 10% of global turnover.

Lord Bassam of Brighton (Lab) [V]: Footballers, women sports commentators and public figures generally receive daily racist, homophobic, misogynist vile abuse and personal threats inciting hatred and physical attacks. The Minister has promised that the Government will act against this in the online harms legislation. Players and commentators alike have acted against abuse but they need support. When will the Government bring forward their Bill; are they waiting for the Law Commission; what will its scope be in tackling abuse; will its codes be voluntary or statutory; what powers will Ofcom have to act; and will the Bill contain measures removing the anonymity of abusers, difficult though that may be, who post abusive material?

Baroness Barran (Con): I may answer a number of the noble Lord's questions in writing but the Bill will be brought forward this year.

Viscount Colville of Culross (CB) [V]: Facebook already has a real-names policy but users often provide fake ID. To enforce real-name identity, a government-backed ID scheme would have to be introduced. However, bearing in mind the current public suspicion of surrendering personal data to tech platforms, are there any plans for the Government to introduce such a digital ID policy for all users?

Baroness Barran (Con): The Government have an open mind on all these issues and the noble Viscount will be aware that the Secretary of State has indicated that he is minded to have pre-legislative scrutiny, which will provide a chance for transparent and robust scrutiny of issues such as that.

The Lord Speaker (Lord Fowler): My Lords, we come to the fourth Oral Question.

Audit and Corporate Governance

Question

12.42 pm

Asked by ***Lord Leigh of Hurley***

To ask Her Majesty's Government what assessment they have made of whether their proposals in *Restoring trust in audit and corporate governance*, published on 18 March, conflict with those in the *UK Listing Review* by Lord Hill of Oareford, published on 3 March.

Lord Leigh of Hurley (Con) [V]: My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In so doing, I draw your Lordships' attention to my interests in the register.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the Government's proposals on audit and corporate governance reform will enhance the UK's reputation as a world-class destination for business and investment. They complement the aim of the review of the noble Lord, Lord Hill, to increase the UK's attractiveness as an international financial centre while maintaining the UK's high standards of corporate governance and shareholder rights. The audit reform White Paper includes a specific option to exempt newly listed companies temporarily from the new requirements.

Lord Leigh of Hurley (Con) [V]: My Lords, in the 210-page impact assessment, somewhat extraordinarily, no monetary benefits were identified, only costs. The average FTSE 100 company's annual accounts have some 200-plus pages that are barely read and the proposals will simply increase the number of those pages. Are we now in danger of moving away from legislation on corporate governance to legislation on corporate management by the state? Is this area not best left to shareholders to decide on? With directors to be made personally liable for management errors, is my noble friend the Minister concerned that business will simply move to be listed in a more business-friendly environment?

Lord Callanan (Con): The impact assessment, in fact, includes examples of quantifiable benefits that will be refined and developed in further iterations of the impact assessment. I agree that shareholders have a vital role in holding companies to account and the White Paper gives them important new tools to scrutinise audit and corporate reporting.

Lord McKenzie of Luton (Lab) [V]: My Lords, from what we have read in the Sunday papers, this is a timely topic for debate and reporting on a long line of corporate failures, going back to Polly Peck, BCCI, Barings, Northern Rock, RBS, Carillion, BHS and, doubtless, many more. Throughout that time the audit market for major companies has been dominated by a few private sector accounting firms—now reduced to four. There is an urgent need to address the quality and effectiveness of audit. I presume that the Government support the proposals for a new profession of corporate auditors. What discussions have taken place with the profession itself on those proposals?

Lord Callanan (Con): Indeed, I have had extensive engagement with the profession, including the big four and a number of smaller companies, as we seek to progress the legislation.

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, in the RBS rights issue trial, Mr Justice Hildyard said that the purpose of Section 87A(2) of the Financial Services and Markets Act, concerning information to enable investors to make an informed assessment, had to be appropriate for the ordinary investor whose protection is the statutory objective. Does the Minister agree that the same logic must apply and be preserved in any changes to audit and capital maintenance statements? They are for the ordinary investor, not just expert users.

Lord Callanan (Con): These proposals are to provide information to expert users and many of the ordinary readers as well. Therefore, both markets are to be fulfilled.

Baroness Noakes (Con): My Lords, no self-respecting non-executive director would take on a directorship unless the company arranged adequate directors' and officers' insurance but the cost of cover has been increasing dramatically, alongside market capacity reductions. What assessment has BEIS made of the impact of its new proposals on the D&O market, with consequential impact on the willingness of good candidates to take on board appointments?

Lord Callanan (Con): My noble friend makes a good point but the proposals will not provide a disincentive to people taking on new appointments. It is important to remember that the proposals for directors' accountability apply only to the largest companies with revenues into the hundreds of millions of pounds and with hundreds, sometimes thousands, of employees. It is right that directors should take more responsibility.

Lord Bilimoria (CB) [V]: Professor Karthik Ramanna of the Blavatnik School of Government at Oxford said in the *FT* last week that corporate auditing is in crisis and that the UK Government have announced a bold set of proposals aimed at restoring public trust in audits and markets. The UK's reputation as a world leader in corporate governance is highly prized and a vital part of what makes the UK an attractive place to invest and do business. What assessment have the Government made of the impact of these reforms on UK businesses, and how will the Government ensure that they will not affect the country's ability to attract foreign investment nor stifle entrepreneurial spirit?

Lord Callanan (Con): I do not agree that the audit market is in crisis. Some worthwhile improvements can be made, which is what we are proposing. The noble Lord will see that a full impact assessment is attached to the proposals.

Lord Lennie (Lab) [V]: My Lords, further to the question of my noble friend Lord McKenzie, can the Minister confirm that any annual report on the state of the City, as proposed in the report of the noble Lord, Lord Hill, will clearly outline how the dominance of the big four accountancy firms has been reduced?

Lord Callanan (Con): The big four accountancy firms are important to the regime but we want to introduce more possible competition into it, which is why we are introducing the proposals for shared managed audit to try to bring up the capacity of medium-sized companies.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, given the clear struggle in the report, *Restoring Trust in Audit and Corporate Governance*, to find a workable model for auditing large UK companies, and given Deloitte UK managing partner Stephen Griggs's comment to *Accountancy Age*, stating that,

"It is important that changes in audit are complemented by reforms to the governance of the UK's largest and most complex businesses",

does the Minister agree that the terms given to the UK listing review were fundamentally flawed? We do not need a more complex so-called competitive sector, but rather simpler, more secure, stable and auditable company structures.

Lord Callanan (Con): We are discussing audit reforms and reforms to the audit market. I think that the noble Baroness may want to have a separate debate about reforms to company structures.

Baroness Neville-Rolfe (Con): My Lords, I refer to my interests in the register. I hope my noble friend realises that this audit and governance package is onerous. It will place significant costs on businesses of all shapes and most sizes and is, I fear, unlikely to achieve a lot in practice. Does he not agree that the best and more immediate way forward would be for the existing, comprehensive rules to be enforced properly by everyone—including firms, auditors and, if appropriate, prosecutors—while minimising the burden of any new regulations?

Lord Callanan (Con): I know that my noble friend is passionate about not imposing new burdens on companies. I share her desire, but we think that the current regime could be improved. There will be a 16-week consultation period, so we will take the time to get these proposals right, but I think that some worthwhile improvements could be made without damaging competitiveness.

Lord Sikka (Lab) [V]: My Lords, I have two points. First, in the absence of a central enforcer of company law, improvement in corporate governance is unlikely. Secondly, in the absence of tougher auditor liability and accountability, there are not sufficient pressure points to secure improvements in audit quality. When will the Government realise that their appeasement of big corporations and accounting firms is actually a recipe for more scandals?

Lord Callanan (Con): We are not appeasing the big accountancy firms; many of them do not like some of our proposals. These are worthwhile reforms that will improve the market and help to bring about the state of affairs that the noble Lord refers to.

Lord Reay (Con): My Lords, the White Paper proposals place onerous obligations on directors of larger businesses. Does my noble friend the Minister share my concerns that the reforms will discourage candidates, due to the increased and unnecessary liability? Further, does he agree that companies will face greater regulation, higher directors' fees and indemnity costs at a time when the noble Lord, Lord Hill, is, sensibly, attempting to improve access to capital markets?

Lord Callanan (Con): I do not agree with my noble friend. As I said earlier, accountability for directors applies only to those in the largest businesses—that is, those with revenues in the hundreds of millions of pounds and potentially thousands of employees. The new sanctions will apply only in cases where directors have clearly failed in their duties as set out in law, so I do not believe that there is a conflict with the proposals made by the noble Lord, Lord Hill.

Lord Sarfraz (Con): My Lords, I declare an interest as set out in the register. Companies are staying private for longer and entrepreneurs are not always in a rush to go public. Will Her Majesty's Government consider simplifying trading in private company shares, possibly even introducing electronic trading, so that founders and employees can access the liquidity they need?

Lord Callanan (Con): My noble friend makes an interesting point. Although this White Paper does not include proposals on trading in companies' shares, the listings review of the noble Lord, Lord Hill, does include some recommendations, including making it easier for private growth companies to make the jump to a public listing.

The Lord Speaker (Lord Fowler): My Lords, all supplementary questions have been asked. That brings Question Time to an end.

Trade Bill

Returned from the Commons

The Bill was returned from the Commons on Monday 22 March with a reason. The Commons reason was ordered to be printed. (HL Bill 185)

Counter-Terrorism and Sentencing Bill

Returned from the Commons

The Bill was returned from the Commons on Monday 22 March with amendments. The Commons amendments were ordered to be printed. (HL Bill 186)

12.53 pm

Sitting suspended.

Arrangement of Business

Announcement

1 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.

Human Rights Update

Statement

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

"With permission, Mr Speaker, I would like to make a Statement about the treatment of the Uighur Muslims in Xinjiang.

This is one of the worst human rights crises of our time and I believe the evidence is as clear as it is sobering. It includes satellite imagery; survivor testimony; official documentation and, indeed, leaks from the Chinese Government themselves; credible open-source reporting, including from Human Rights Watch and Amnesty International; and visits by British diplomats to the region that have corroborated other reports about the targeting of specific ethnic groups.

In sum, the evidence points to a highly disturbing programme of repression. Expressions of religion have been criminalised and Uighur language and culture discriminated against on a systematic scale. There is widespread use of forced labour with women forcibly sterilised, children separated from their parents and an entire population subject to surveillance, including the collection of DNA and use of facial recognition software and so-called predictive policing algorithms.

State control in the region is systemic. Over 1 million people have been detained without trial. There are widespread claims of torture and rape in the camps based on first-hand survivor testimony. People are detained for having too many children, for praying too much, for having a beard or wearing a headscarf, and for having the wrong thoughts.

I am sure the whole House will join me in condemning such appalling violations of the most basic human rights. In terms of scale, it is the largest mass detention of an ethnic or religious group since the Second World War, and I believe one thing is clear: the international community cannot simply look the other way.

It has been two and a half years since the UN Committee on the Elimination of Racial Discrimination called on China to stop arbitrarily detaining Uighurs and other minorities in Xinjiang province. It is over 18 months since the UK led the first ever joint UN statement on Xinjiang at the UN General Assembly's third committee, back in October 2019. The number of countries now willing to speak out collectively has grown from just 23 to 39 as the evidence has accumulated and as our diplomatic efforts have borne fruit. That is a clear signal to China about the breadth of international concern.

Last year, 50 independent UN experts spoke out about the situation in an exceptional joint statement calling on China to respect basic human rights. Last month at the Human Rights Council, I led the calls on China to give the United Nations High Commissioner for Human Rights, Michelle Bachelet—or another fact-finding expert—urgent and unfettered access to Xinjiang. Since then, Ms Bachelet herself has reinforced in the clearest terms the need for independent access to verify the deteriorating situation. We regret that, instead of recognising those calls from the international community, China has simply sought to deny them. The Chinese authorities have claimed that the legitimate concerns raised are fake news. At the same time, the authorities continue to expand prison facilities, surveillance networks and forced labour programmes. China continues to resist access for the UN or other independent experts to verify the truth, notwithstanding its blanket denials.

For the UK's part, our approach has been to call out these egregious, industrial-scale human rights abuses, to work with our international partners and ultimately to match words with actions. In January, I announced a package of measures to help ensure that no British organisations—government or private sector—deliberately or inadvertently can profit from human rights violations against the Uighurs or other minorities and that no businesses connected with the internment camps can do business in the UK.

Today, we are taking further steps, again in co-ordination with our international partners. Having very carefully considered the evidence against the criteria in our global human rights sanctions regime, I can tell the House that I am designating four senior individuals responsible for the violations that have taken place and persist against the Uighur Muslims in Xinjiang. Alongside those individuals, we are also designating the Public Security Bureau of the Xinjiang Production and Construction Corps. That is the organisation responsible for enforcing the repressive security policies across many areas of Xinjiang. The sanctions involve travel bans and asset freezes against the individuals and asset freezes against the entity we are designating. The individuals are barred from entering the UK. Any assets found in the UK will be frozen.

We take this action alongside the EU, the US and Canada, which are all taking similar measures today. I think it is clear that by acting with our partners—30 of us in total—we are sending the clearest message to the Chinese Government that the international community will not turn a blind eye to such serious and systematic violations of basic human rights and that we will act in concert to hold those responsible to account.

As the Prime Minister set out in the integrated review last week, China is an important partner in tackling global challenges such as climate change. We pursue a constructive dialogue where that proves possible, but we will always stand up for our values, and in the face of evidence of such serious human rights violations, we will not look the other way. The suffering of the Uighur Muslims in Xinjiang cannot be ignored. Human rights violations on this scale cannot be ignored. Together with our partners, we call on China to end these cruel practices, and I commend this Statement to the House."

1.01 pm

Lord Collins of Highbury (Lab): My Lords, I am pleased that sanctions against Chinese officials have finally been confirmed. This is a welcome step. I also welcome the moves made yesterday by the EU and other partners, albeit many months after the Board of Deputies, the Uighur Congress, Members across this House and in the Commons called for their introduction. However, these designations are not enough and are certainly not a substitute for Parliament gaining the power to block trade agreements with China based on a determination of genocide. The sanctions do not represent a strategy; they are just one instrument in a foreign policy that is not nearly confident enough about our values. If the Government are truly serious about holding this barbarism to account, they must be consistent in their approach. That is why what the Foreign Secretary said earlier this month is so concerning —that he has no reason to think that we could not deepen our trading relationships with China. Boris Johnson said only last month that he is committed to strengthening the United Kingdom's ties with China, whatever the occasional political difficulties.

As a country, we can never turn a blind eye to human rights abuses. That means always standing with the Uighur people, not only when it is convenient for us to do so. The Foreign Secretary said that the persecution of the Uighur Muslims represents one of the worst human rights crises of our time and, for that reason, it requires one of the strongest international responses of our time, co-ordinated with our allies. Can the Minister therefore confirm why there are discrepancies between the designations in our sanctions and those of the US?

Last Wednesday, the *Financial Times* reported Antony Blinken, the US Secretary of State, when he identified 24 CCP officials. He warned that any financial institution that had significant business with these officials would also be subject to sanctions. I hope that the Minister will be able to confirm that we will mirror that action.

Our actions must be swift and urgent, and these designations are neither. As a country, we must reflect our values on the world stage and at home, which means that these sanctions must be equipped with domestic legislation to prevent anyone in the UK being linked to this persecution. Will the Minister commit the Government to strengthening Section 54 of the Modern Slavery Act to prevent forced labour being supported by UK business supply chains?

Yesterday in the other place, despite the press reports I have referred to, the Foreign Secretary said

"that there is no realistic or foreseeable prospect of a free trade agreement and that the way to deepen our trade with China was for it to improve its human rights record."—[*Official Report*, Commons, 22/3/21; col. 624.]

I hope that the Minister can today give a cast-iron guarantee that the Government have no intention of pursuing trade negotiations with the Government of China during the course of this Parliament. Above all, if the UK is determined to face down the oppression of the Uighur people, we must build bridges with like-minded allies who share our ambition to end this persecution.

Can the Minister tell us in more detail what steps the United Kingdom will take at the UN to raise the situation in the Xinjiang province? The House may also be aware that today marks the conclusion of the UN Human Rights Council's main 2021 session, which will end without any condemnation of China's action in Xinjiang, Hong Kong or elsewhere. The UK needs a foreign policy that is clear and confident about our values, but instead, for a decade now the Government have pursued an incoherent and inconsistent approach to the Chinese Government and the Chinese communist party. There is no greater display of this than the efforts to block the amendment of the noble Lord, Lord Alton of Liverpool, just as the Government announce these long-awaited sanctions.

As I have warned before, there is a yawning chasm between the Government's words and their actions. If they share the ambition of these Benches for the United Kingdom to be a moral force for good in the world, they must do more to stand against the barbaric events in Xinjiang. That means acting with greater urgency than we have seen with these sanctions, taking steps domestically to prevent the UK being linked in any way to these events, and working in tandem with our allies who share our values.

Baroness Northover (LD): My Lords, I thank the noble Lord for bringing us this Statement. The Foreign Secretary has described the treatment of the Uighurs as

"one of the worst human rights crises of our time."—[*Official Report*, Commons, 22/3/21; col. 621.]

He noted that the evidence is clear in the form of satellite images, testimony from survivors, official documents, leaks from the Chinese Government and much else besides. This has been gathered despite China's refusal to allow in independent inspectors, as requested by Michelle Bachelet, the High Commissioner on Human Rights, and others.

As well as attacks on the Uighur culture and language, we see forced labour, forced sterilisation and children being separated from their parents. More than 1 million people have been detained without trial. The Statement describes this as the largest mass detention of an ethnic or religious group since World War Two. Many experts are now reporting that every provision of the convention on genocide has been violated. Can the noble Lord say whether the Government accept that this is genocide? When the Chief Rabbi describes it as such, do the Government not concur? The Americans certainly describe it as genocide.

I note the cynicism expressed in the Commons yesterday—that this announcement was amazingly timed, just as the Government sought to see off the amendment on genocide that has come repeatedly from this House, led by the noble Lord, Lord Alton. The UK has said consistently that genocide determination is a matter

[Baroness Northover]
for the courts, and the noble Lord has always said so. But then the Government resisted that method when presented with a way of doing it. However, when it is not possible for a determination to be made by the International Criminal Court, as here, what is the pathway to genocide determination? That remains very unclear.

I welcome the sanctions announced yesterday by the Foreign Secretary. In this instance, I commend the Government for their close working with our allies. I note that not all of the Five Eyes countries have joined in. If that reflects a concern about repercussions, that is worrying and shows how vital it is that we act together. I am particularly pleased that we are acting jointly with the EU. The integrated review more or less ignored the continent we sit in, yet it was when we were in the EU, as the Minister knows, that we worked with our EU colleagues, particularly Sweden and the Netherlands, to bring forward the adoption of human rights sanctions by the EU. As he himself always and rightly says, sanctions are most effective when applied collectively.

The sanctions announced this week must be seen as a first step, not a final one, as the noble Lord, Lord Collins, emphasised. Trade relations cannot be left out. The integrated review promoted more trade with China, yet also said that we would address human rights. Can the Minister assure us that no trade agreement will be sought with China while this situation continues? Cutting off ties with companies implicated in forced labour will also send a strong message to the Chinese authorities. The Government have introduced some measures to address this but, again, these can be only the first step. How will the Government go further to ensure a consistent approach across all parts of government and all aspects of UK-China relations? For example, will the UK follow the US in banning imports of cotton and tomato products from Xinjiang?

China has responded with its own sanctions on European officials, but I note that one official said that the action against him shows that China clearly feels sensitive about this, which means that co-ordinated pressure should continue. I also ask the noble Lord not to duck this question: as we claim we are free of the EU to have higher standards and do more on human rights, why have we agreed a trade deal with Cambodia with no restrictions because of human rights abuses there, even though the EU has used its own human rights conditions to put restrictions on its trade relations with Cambodia? As he knows, I have asked about this in Written Questions and got unsatisfactory answers, so I would be grateful if he would clarify.

In addition, what are we doing to take forward sanctions provisions to address corruption? The Minister keeps saying that they are imminent. Are we looking with allies at sanctions in relation to Hong Kong or do we not have sufficient traction on this? We are in a multipolar world, as the integrated review says, with the US superpower and the rising Chinese superpower, but the EU too. Britain alone is not such, and it needs allies. I welcome the actions here and that we are working with all our allies, but there is much more that we need to do.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con) [V]: My Lords, I thank the noble Lord, Lord Collins, and the noble Baroness, Lady Northover, for their constructive remarks and will seek to address their specific questions. I also acknowledge that we have received support from the main Opposition Benches for what the noble Baroness describes as the first step on sanctions.

Addressing some of the issues, I must admit that I was a tad disappointed by the response from the noble Lord, Lord Collins, about the speed with which these sanctions have come about. I remind noble Lords that it was only a short while ago that we brought in the structure of the global human rights sanctions regime, and this is another example of taking it forward. Well over 70 people have now been sanctioned under that regime, and I am sure that the noble Lord, Lord Collins, will acknowledge that we have acted. That we acted in conjunction with our allies yesterday again shows strong co-operation and the necessity of gathering evidence and ensuring that sanctions imposed on individuals—and an organisation is included in this case—are based on evidence and the facts presented to ensure that they are robust to any challenge that may be made against them.

The noble Baroness, Lady Northover, referred to the Trade Bill being discussed in the other place yesterday and this coincided with that. I am sure that she will reflect on how we were co-ordinating with other allies and how this falls at a time when both Houses are focused on the importance of our future relationship with countries. It is also entirely appropriate that we have introduced these sanctions regimes in co-ordination with our key partners, as the noble Baroness and the noble Lord both acknowledged.

The noble Baroness asked about the absence of other Five Eyes partners, aside from Canada, the US and us. As she would acknowledge, that is because they do not yet have a global human rights sanctions regime, but we are very much co-ordinating our actions with key partners. It is worth while recognising that, when we include all the EU partners, as well as the United States and Canada, 30 countries are acting together and in co-ordination on sanctions. There was some discrepancy or difference between the sanctions—the US had moved forward on sanctioning some named individuals earlier—but we now have a coming together and consistency between all key allies in this respect.

The noble Lord, Lord Collins, asked about the Trade Bill, which is returning to your Lordships' House. Without stealing from any of the debate that will follow, I fully acknowledge the strong sentiments that we have seen over the last weeks and months. I pay tribute particularly to the noble Lord, Lord Alton, for bringing to the fore the importance of human rights in our work representing the United Kingdom's interests abroad. Through both Houses working together, we have seen a move forward and acknowledgement from the Government to accept many of the points that have been raised. I believe that what is coming to your Lordships' House reflects how the Government have listened to the strong sentiments, expressions and views that have been expressed on these important issues in both Houses.

The noble Lord, Lord Collins, asked about our relationship with China, going forward, and the comments of my right honourable friends the Prime Minister and the Foreign Secretary. I reiterate that China has an important role to play on the world stage in resolving conflicts. It is equally important that China has a role in the major issues that confront us, including climate change. On any future trading relationship, we have acknowledged previously and acknowledge again that we do not turn a blind eye to human rights abuses. I stand by my right honourable friend when he described the situation of the Uighurs in Xinjiang and their desperate plight, as I am sure all noble Lords would acknowledge. Today we see the next step in ensuring that we continue to profile this abuse and, at the same time, are seen to take actions against its perpetrators within Xinjiang.

The noble Baroness specifically asked about the trade deal with Cambodia. I will write to her on that, if I may. We put a specific human rights lens as we formulate and announce all new trade deals to ensure that it is part and parcel of our thinking and planning. The noble Lord, Lord Collins, referred to the Modern Slavery Act, on which we have already seen announcements from the Government. Indeed, in January, my right honourable friend the Foreign Secretary announced new measures on issues around the supply chain. There are also further discussions taking place with the Home Office on the penalties that will be employed against those who do not adhere to the forthcoming regulations. I am sure that your Lordships' House will be updated in due course, as we bring forward further detail on these measures.

The noble Lord, Lord Collins, also talked about the lack of co-ordinated activity in this respect. I challenge that directly, as the Minister responsible for both the United Nations and human rights. Let us not forget that the United Kingdom first raised this in a multilateral forum, and that was just shy of two years ago. We have seen steady support for the United Kingdom working with key partners to ensure that there are now more than 39 countries, and growing, which now speak strongly and specifically on the important issues of the abuse incurred by the Uighur community in Xinjiang. It shows the strength of UK diplomacy that we have continued to raise this issue at the UN Third Committee and have raised it consistently at the Human Rights Council.

The noble Lord referred to the various resolutions that have passed. Today, we passed a new resolution on Sri Lanka, which I am sure that many noble Lords will welcome. At the same time, the issue of China, in the context of both Hong Kong and Xinjiang, was very much part and parcel of my right honourable friend's contribution to the Human Rights Council.

I pick up the point on corruption sanctions that was rightly raised by the noble Baroness, Lady Northover. I have used this phrase before in the context of these sanctions, but we are working through this specific framework. They are very high on our agenda and we hope to come to your Lordships' House and the other place, in the near future, on the framework to widen the scope of the sanctions regime.

I assure all noble Lords that we will continue to engage proactively on this issue, because I know it carries great strength of views, which are expressed in your Lordships' House and which I greatly value, particularly in my capacity as Human Rights Minister. We will continue to work constructively and engage with noble Lords when these issues arise in the Chamber and, as we have done previously, by proactively updating them on developments.

The Deputy Speaker (Lord Alderdice) (LD): We now come to the 20 minutes allocated for Back-Bench questions. I ask that questions and answers are brief so that I can call the maximum number of speakers.

1.20 pm

Lord Polak (Con): My Lords, as a result of coronavirus, the world, in so many ways, is upside down. Yesterday in the other place 29 Members from my party voted for the genocide amendment and were called "rebels", including a former leader and a former Foreign Secretary. They are not rebels; they are righteous heroes. As Elie Wiesel said,

"We must take sides … Silence encourages the tormentor, never the tormented."

In this Statement, the Foreign Secretary's words that,

"The suffering of the Uyghur Muslims in Xinjiang cannot be ignored"

are welcome, and he was right to begin to impose sanctions. But I ask my noble friend the Minister whether the Government will continue to ask for unfettered access to Xinjiang, and whether he agrees that there is an urgent need to establish mechanisms to collect and preserve the evidence of the atrocities, which the Foreign Secretary described as

"one of the worst human rights crises of our time."

Lord Ahmad of Wimbledon (Con) [V]: [*Inaudible*]—and also his own work in this respect. As I have already mentioned, I align myself with and recognise the strong sentiments of and the incredible role played by many in your Lordships' House, and in the other place, on all sides of the two Chambers, in ensuring that we move forward in a constructive way on the important issue of the continuing suffering of the Uighur people. I fully acknowledge and respect the important contributions and role of Members in the other place, as well as your Lordships, in this respect.

On the specific point that my noble friend, and the noble Baroness, Lady Northover, raised on ensuring that unfettered access should be guaranteed, I absolutely agree; we are calling for that for Michelle Bachelet, the United Nations High Commissioner for Human Rights. On the specific issue of accountability and justice for those committing these crimes, I am sure my noble friend has noted the statement that my right honourable friend the Foreign Secretary made jointly with the US Secretary of State and the Canadian Foreign Minister in this respect.

Lord Alton of Liverpool (CB): My Lords, I welcome the Foreign Secretary's Statement and its repetition here today by the Minister. In thanking him, and the Foreign Secretary, for the role that they have played in making a reality of these Magnitsky sanctions, I endorse everything that the noble Lords, Lord Collins and Lord Polak, and the noble Baroness, Lady Northover, have said. I have two questions for the Minister. First,

[Lord Alton of Liverpool]
higher up the food chain are people like Chen Quanguo, who has been responsible for giving the orders in Xinjiang against the Uighurs. Can the Minister, without going into individual cases, at least assure us that just because people are higher up the food chain, they will not avoid these Magnitsky sanctions in the future? Secondly, returning to the point made by the noble Baroness about pathways to determining genocide, can the Minister at least assure us that if he believed there to be convincing evidence of a genocide under way, in Xinjiang or anywhere else, he would not be in favour of continuing trade with a country complicit in genocide?

Lord Ahmad of Wimbledon (Con) [V]: My Lords, on the noble Lord's second point, the United Kingdom has been seen to be taking action against anyone, or any country, that is found to be engaging in genocide following a judicial process, and, indeed, even where genocide has not been declared by a legal court. A good example is the suspension of trading relationships and other agreements. In answering the noble Lord's first question, I also recognise that, yes, the United Kingdom does ensure that we produce a robust evidence base. As was seen recently with the situation in Myanmar, there have been occasions where we have taken action directly against people such as those leading the coup in that country.

Lord Triesman (Lab) [V]: My Lords, speaking about the Uighur Muslims, the Foreign Secretary described the evidence of human rights abuses as clear and corroborated, as we have heard, and the noble Baroness, Lady Northover, and my noble friend Lord Collins described the various ways in which that is true. In summary, Mr Raab himself described it as
"egregious, industrial-scale human rights abuses".
I greatly respect the Minister, but I wonder whether he might not reflect that he has been a little complacent about the speed at which we have used Magnitsky sanctions, and that we have missed a number of opportunities to co-operate internationally. If the Government are resistant to using the word "genocide", will the Minister at least confirm that he can use the expression that is used at the UN, that there are "crimes of concern to humanity" and "crimes against humanity"? If he can, will he confirm the good sense of amending the Trade Bill to make sure that those who benefit from such crimes will not do so by having trade opportunities in their hands?

Lord Ahmad of Wimbledon (Con) [V]:[*Inaudible*]—on a lighter note, I am always conscious that, when in an opening line "great respect" is expressed for the Minister, what will follow thereafter is a reflection of a challenge, and that has been proven correct today. Of course, I take on board what the noble Lord, Lord Triesman, has said. The Trade Bill will be up for discussion in your Lordships' House today and I look forward to that. On the issue of complacency, I will challenge the noble Lord; I am afraid, on this occasion, I cannot agree with him. We have seen a structured approach to the new regime being introduced; we have close to 76 people, I believe, who have been sanctioned as part of this, and it is right and important that we acted once we had the evidence. But it is also right, as the noble Baroness, Lady Northover, acknowledged, that we act in conjunction with our key partners, because acting together shows the strength of the international community in the face of the continued human rights abuses we are seeing in Xinjiang.

Lord Purvis of Tweed (LD): My Lords, the joint UK-China communiqué on the occasion of President Xi addressing both Houses of Parliament in 2015 highlighted seven co-operation agreements, strategic partnership agreements and joint alliances covering preferential trading terms and UK market access—not available to many other countries. Given the horrors we now know of, how many of these preferential trading agreements have been suspended?

Lord Ahmad of Wimbledon (Con) [V]:[*Inaudible*]—in respect of what the noble Lord asks, I will write to him. I also acknowledge that, while these agreements were signed in 2015, the international community was alerted to the situation that we see emerging in Xinjiang only in 2016. But on the specifics, I will write to the noble Lord.

Baroness Warsi (Con) [V]: My Lords, noble Lords across the House acknowledged the Government's work on this issue, particularly the work of my noble friend the Minister. We were of course one of the first countries to raise the Uighur issue at the UN two years ago, and my noble friend has led and built a strong coalition. I ask him what the next steps are for Her Majesty's Government—what ties need to be built, and how? Why, in light of my noble friend's sincere commitment to this issue, which is in no doubt, are the Government unable to hear the strength and breadth of the coalition standing behind the amendments in the name of the noble Lord, Lord Alton, in this place, and my honourable friend the Member for Wealden in the other place? What is stopping the Government supporting and adopting these amendments?

Lord Ahmad of Wimbledon (Con) [V]: On my noble friend's second point, I have already acknowledged the important work that has been done in both Houses in this respect. The Government's amendment reflects those sentiments quite specifically, and I am sure that there will be further debates in your Lordships' House on that. In thanking my noble friend for her remarks, in terms of the next steps on building alliances, there is a major area that we need to work on, and that is the lack of condemnation of what we have seen in Xinjiang among the Muslim countries of the world—the Islamic countries. Therein lies a challenge for all of us within the existing alliance, to ensure that we strengthen our partnerships with the OIC, and other specifically bilateral ties, to ensure that we see Muslim countries speaking out against the suffering of over 1 million Muslims in China.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, I welcome the repeat of the Statement and the Government's positive move to apply Magnitsky sanctions to principal actors, but I note that there was no reference to genocide, even though there is credible evidence of systematic repression, imprisonment, gang

rape, torture, forced sterilisation and the suppression of the Uighur language and culture. Does the Minister agree that putting all this horrific treatment together surely amounts to genocide by any definition, whether it be a moral, political or legal question? Could he tell the House why the Government fail to call it out as such by name?

Lord Ahmad of Wimbledon (Con) [V]: On the specific definition of genocide, my response and those of other Ministers are well documented. But I recognise the description that the noble Lord gave us all of the situation in Xinjiang, and I stand by the fact that the human rights abuses that we have seen, and which he described, are why we are acting with partners today.

Lord Harries of Pentregarth (CB) [V]: I welcome the strong Statement and the actions that are to follow from it, but will the Government act with consistency and similar firmness in relation to other countries where human rights are grossly violated? I could mention a number, but I shall mention one that gets almost no publicity: the continuing atrocities and ethnic cleansing in West Papua. For example, the retired General Hendropriyono, the former head of Indonesian intelligence—the BIN—has called for 2 million West Papuans to be forcibly removed from their homes and relocated elsewhere in Indonesia. I know that the Government repeatedly condemn such actions, but will they go further, be consistent and impose sanctions on him and others involved in what is, in effect, an attempt to destroy a whole people and its culture?

Lord Ahmad of Wimbledon (Con) [V]: Again, as the noble and right reverend Lord acknowledged, the Government have rightly consistently called out human rights abuses, not just in the situation he described but elsewhere in the world. On sanctions specifically, as I have indicated, a process is followed to ensure that the sanctions we impose are evidence-based and robust. We will continue to act. We do not shy away. Many rightly challenged us for a number of months that we were not acting on sanctioning figures from China. We have done so, and China is a major world power. We have not shied away from our moral responsibility in this respect. The fact that we have acted with 30 other countries demonstrates the will of the international community.

Baroness Kennedy of The Shaws (Lab): My Lords, I too welcome this important collaboration with many partners and the creation of these targeted sanctions. I will speak specifically about our embrace of targeted sanctions. Is the Foreign Office engaging with countries that so far do not have targeted sanctions as part of their regimes for dealing with human rights abusers and things such as genocide? The noble Baroness, Lady Northover, asked about the absence of some of our Five Eyes partners from the coalition of targeted sanctions announced in this last day. The reality is that Australia, for example, does not have a targeted sanctions regime. Are we persuading other democracies to take on board this great new development in international law? It gives teeth to international law in a situation where one cannot get people before international courts.

I will also pick up on the question asked by the noble Lord, Lord Alton. Targeted sanctions must be used in a very strategic way. To go after lesser persons is not using the regime in the way that it was supposed to be used. For example, the United States of America has on its list the governor of Xinjiang province, Mr Chen Quanguo. Why do we not have him on our sanctions list? He has been sanctioned by the United States; why not by us?

Lord Ahmad of Wimbledon (Con) [V]: I pay tribute to the work that the noble Baroness has done in the context of media freedom and the coalition. The independent legal panel has produced some excellent reports in that respect, including on the use of sanctions. The short answer is that we are speaking to other key partners, specifically some of those she mentioned, to see how we can share our experiences so that they can bring about their own sanctions regimes.

On the specifics of future people who may be sanctioned, it would be mere speculation, but I assure the noble Baroness that we remain very firm on working and sharing evidence with our partners in this respect. We have worked very closely with the United States in particular on these issues and we will continue to do so.

Lord Roberts of Llandudno (LD) [V]: Are we giving the world the moral leadership that it is crying for, or are we just repeating what Pastor Niemöller said of the Nazi regime: "First of all they came for the Jews. I wasn't a Jew so I didn't speak out. Then they came for the communists. I wasn't a communist so I didn't speak out. Then they came for the trade unionists, but I wasn't a trade unionist so I didn't speak out. Then they came for me, and there was nobody left to speak for me"?

Lord Ahmad of Wimbledon (Con) [V]: We are giving clear leadership and working with allies. While we are touching on a sobering subject—the situation of the Uighurs in China—we should recognise that we have not shied away. On my personal commitment, I assure the noble Lord that I meet many members of persecuted communities around the world. Yes, we may not always act with the speed that noble Lords desire, but I am proud of the fact that the United Kingdom continues to play a leading role in standing up for those who do not have a voice and acts when it needs to, as we did yesterday with international partners in sending a very strong message to a country such as China that we will call out human rights abuses.

Lord Balfe (Con): My Lords, Australia and New Zealand —Australia in particular—were threatened by China earlier this year over coronavirus. What steps are we taking to get the other two of the Five Eyes firmly on board? Secondly, what steps are we taking in the Council of Europe's ministerial council, where there are a lot of belt and road countries that are now in deep financial trouble? Thirdly, what are we doing in the Commonwealth to try to get to some Commonwealth solidarity?

Lord Ahmad of Wimbledon (Con) [V]: I believe that I have already answered my noble friend's first question in response to the noble Baroness, Lady Kennedy. He is right to raise how we can further strengthen the

[Lord Ahmad of Wimbledon]
profile of human rights abuses and get a wider, more diverse selection of countries to support the actions we have taken. The Council of Europe and the Commonwealth provide opportunities for this. I assure my noble friend that we will focus on specific issues of human rights as part of our discussion at the next CHOGM in the upcoming summit in Kigali.

The Earl of Sandwich (CB) [V]: My Lords, I welcome the Statement and the sanctions, but in relation to our new trade agreement with Turkey, are HMG also concerned about the increasing clamp-down on human rights there and its withdrawal from the Istanbul convention? Does he agree with the UN Commissioner for Human Rights, who said:

"Any anti-terror operation should comply with international human rights law, and should not be used to target dissent"?

Lord Ahmad of Wimbledon (Con) [V]: Turkey remains an important partner for the United Kingdom, but I assure the noble Earl that I engage directly on the issue of human rights with the Turkish Government. They have recently produced a new report on the actions they will take this year. We would rather they stayed on board with the Istanbul convention. I agree that any actions we take to ensure that our countries are secure from the scourge of terrorism need to ensure that human rights are always protected.

Baroness Blackstone (Ind Lab): My Lords, like others I welcome the decision to enforce sanctions, but I will press the Minister again on the question asked by the noble Lord, Lord Alton, and my noble friend Lady Kennedy of The Shaws. Can he explain explicitly why the Communist Party boss in Xinjiang is not on the list of those being sanctioned, given that he is considered by many to be the main enforcer of hard-line policies there? If the Minister cannot be explicit now, could he possibly write to me to explain the very odd decision not to include him?

Lord Ahmad of Wimbledon (Con) [V]: I have noted what all noble Lords have said in respect of sanctions of other individuals. I am sure that noble Lords respect the fact that I cannot be specific on particular names, but, as the noble Baroness requested, I will be happy to explain the process we go through before we sanction any individual or entity under the regime.

The Deputy Speaker (Lord Alderdice) (LD): I am afraid that the 20 minutes for Back-Bench questions has now finished. I regret that it has not been possible to call all the Members on the list.

1.41 pm

Sitting suspended.

Arrangement of Business

Announcement

2 pm

The Deputy Speaker (Baroness Henig) (Lab): My Lords, the Hybrid Sitting of the House will now resume. I ask Members to respect social distancing. I will call Members to speak in the order listed. As there is a counterproposition, any Member in the Chamber may speak. Any Member intending to do so should email the clerk or indicate when asked. 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. Leave should be given to withdraw Motions.

Trade Bill

Commons Reason

2.01 pm

Motion A

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

That this House do not insist on its disagreement with Commons Amendments 3C and 3D, on which the Commons have insisted for their Reason 3F, and do not insist on its Amendment 3E in lieu, to which the Commons have disagreed for the same Reason.

3F: Because Amendments 3C and 3D make appropriate provision for taking reports of genocide into account during parliamentary scrutiny of trade agreements, and because Amendment 3E would impose a charge on public funds; and the Commons do not offer any further Reason in respect of Amendment 3E, trusting that this Reason may be deemed sufficient.

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, with this possibly—perhaps hopefully—being the final debate on the Bill, I will take the chance to say a few words before responding substantively to the amendments before us today. I hope that noble Lords agree that the overall tenor of the debates in this House and the other place has been positive. There will always be disagreements and different opinions on policy; that is the nature of politics. However, I believe that we have worked constructively and made this Bill into a commendable piece of legislation that reflects the will of Parliament.

I pay tribute to the noble Lord, Lord Alton. He has been a force of nature over the past few months and shown us how determined advocacy can lead to real change. Again, while there are certainly disagreements about how best we should look to approach human rights around the world and in trade, he has brought to the fore an incredibly important issue, and we are all the better for that fact.

I turn now to Commons Amendments 3C and 3D. The Government have moved in response to noble Lords' concerns and supported the process and approach set out in the amendment from the chair of the Commons Justice Select Committee, which passed in the other place again yesterday. The Government continue to support that amendment as a reasonable and meaningful compromise on this difficult issue; today, I ask noble Lords to do likewise. The Government agree wholeheartedly with the principle behind this amendment: that we must have robust and searching parliamentary scrutiny of proposed trade agreements, especially where there are credible reports of genocide in a prospective

partner country. This amendment delivers on that principle by ensuring that the Government must put their position on record, in writing, in response to a Select Committee publication identifying such credible reports. The committee can then insist on a parliamentary debate if it is not satisfied with this response, and the Government will be obliged to make time for such a debate.

The amendment also gives to the responsible committee for the elected House the authority to draft the Motion for debate. This is a substantive concession. In light of the amendment tabled by the noble Lord, Lord Adonis, I can confirm that the Government expect that its production of a report and the scheduling of any subsequent debate would be undertaken swiftly and within agreed timetables. This approach allows us to ensure that Parliament is in the driving seat on this issue, and that it can hold the Government to account for their trade policy, debating the issues openly in your Lordships' House and in the other place. It does this while respecting the Government's long-standing policy that it is for competent courts to make determinations of genocide.

The other place yesterday debated the issue of legal expertise and how parliamentarians who have previously held high judicial office might be involved in deliberations over credible reports of genocide. While this proposal was disagreed to in the elected House for reasons of financial privilege, I draw noble Lords' attention to the remarks made by the Minister of State for Trade Policy at the Dispatch Box. He made it clear that the Government are willing to work with Parliament to develop an approach that draws on judicial expertise, if that is indeed Parliament's express wish. I repeat that undertaking in your Lordships' House today. Implementing such an approach could be readily achieved through Standing Orders and we would support this.

Of course, it is ultimately up to Parliament how it wishes to organise its own affairs. It is possible, for instance, for the membership of a new Joint Committee to be made up of members of Select Committees from both this House and the other place. It would be possible for such a committee to be chaired by a former senior member of the judiciary drawn from the Cross Benches and, with the agreement of the usual channels, to appoint additional members with relevant expertise to this Joint Committee. The precise details remain to be worked out but the Government are supportive of working with Parliament on this issue within the bounds of the procedure agreed to—for the second time, I have to say—in the other place yesterday. I beg to move.

Motion A1 (as an amendment to Motion A)

Moved by ***Lord Adonis***

At end insert, ", and do propose Amendment 3G as an amendment to Commons Amendment 3C—

3G: In subsection (6), at end insert "within reasonable time.""

Lord Adonis (Lab): My Lords, I move this amendment only for the purposes of precipitating a debate. The Minister rightly said that the other place has considered this matter three times, and three times produced a majority for the position that comes before us again this afternoon. We obviously should not impose our will again. I pay tribute to the Minister, who has been extremely conscientious in his handling of this matter all the way through. I add that the only reason I am moving an amendment myself is that I could not persuade the noble Lord, Lord Alton, to move one.

The noble Lord, Lord Alton, is the hero of this whole process. He is held in very high esteem in the House. The Minister described him as a force of nature; I would add that he is also a force for humanity in the House. When, as I hope, we ultimately we get to grips with the situation in respect of China and the Uighurs without the rollout of a full genocide—which could be in progress at the moment—the noble Lord will be among those who deserve credit, as will all those who have fought so hard over so many years for the rights of these people to be heard. They are people who would not be heard if politicians like the noble Lord, Lord Alton, did not take up their cause.

On the merits of the case before us, we have converged. There will be a process involving a formal review of what is going on in Xinjiang in respect of the Uighurs. The noble Lord, Lord Alton, would have preferred that it had a more formal judicial component, a view which I supported. We began with it going to a court and then to a judicial committee; we now have a parliamentary committee. While a parliamentary committee has limitations, I note that the Minister flags up in his own amendment that the committee could bring in senior judicial figures to help in its considerations. We could therefore get quite close to what was being proposed before—and I respect the Minister's final remarks about these matters being considered in a timely fashion.

It is also very important that nobody thinks that there are easy answers here. Of course our relations with a great trading nation such as China—one of our greatest trading partners and a rising, not declining, power—are always going to be problematic. When the Government say in their strategy paper *Global Britain in a Competitive Age*, published last week, in respect of China:

> "We will continue to pursue a positive trade and investment relationship with China, while ensuring our national security and values are protected",

that is a perfectly fair statement of policy, which I think any Government would sign up to. I was a member of a Government who sought to maintain precisely this balancing act, and one of the very few Ministers since the war to have visited Taiwan. I went to look at its outstanding education system but I remember being told by very senior members of the Foreign Office what I was and was not allowed to say when I was there. I was urged particularly to avoid having any photographs taken with members of its Government, lest this be taken as somehow giving recognition to Taiwan as an independent state.

We have all been there, in a sense, and I do not criticise the Government for having to maintain a difficult balancing act. This is the nature of modern life, where we live in interdependent economies. I still fondly hope that it will be possible to foster better relations with China, including being able to boost trade on the basis of an improved recognition of human rights in China itself.

[Lord Adonis]

As the Bill finally reaches the statute book, however, it is worth us considering the problem we may be entering into. It is not because this issue is not difficult—we all recognise that it is—but because it seems, and I say this with all due respect to the Minister and his colleagues, that the Government are in danger of dialling up both their concern for human rights and, at the same time, their desire for improved trading relations with China, without recognising that there is an inevitable tension between those things. They seem to be moving on from a recognition of the facts of life into, dare I say it, wanting to have their cake and eating it. You just need to read the relevant documents and statements by members of the Government to understand that.

In what I thought was in many ways an admirable Statement by the Foreign Secretary in the House of Commons yesterday, he said of the persecution of Uighur Muslims in Xinjiang:

"This is one of the worst human rights crises of our time and I believe the evidence is clear … It includes satellite imagery; survivor testimony; official documentation and, indeed, leaks from the Chinese Government themselves; credible open-source reporting, including from Human Rights Watch and Amnesty International; and visits by British diplomats … In sum, the evidence points to a highly disturbing programme of repression. Expressions of religion have been criminalised, and Uyghur language and culture discriminated against on a systematic scale. There is widespread use of forced labour; women forcibly sterilised; children separated from their parents; an entire population subject to surveillance, including collection of DNA and use of facial recognition software and so-called predictive policing algorithms."—[*Official Report*, Commons, 22/3/21; col. 621.]

He went on in this vein. Let us be clear what is happening: this is prima facie evidence of a genocide, and the Foreign Secretary as good as said that in the House of Commons yesterday.

The Minister's letter to us, which he kindly made available just before the debate, says that

"the UK is sending a clear message that we believe those responsible for serious human rights violations or breaches of international humanitarian law in China should face consequences."

But the head of the Government, the Prime Minister, said in a meeting of Chinese businesspeople in Downing Street on 12 February—I know that Harold Wilson told us a week is a long time in politics, but 12 February is only a few weeks ago—that he was "fervently Sinophile" and determined to boost trade

"whatever the occasional political difficulties".

Are we talking about prima facie evidence of genocide or "occasional political difficulties"? There is a bit of a gulf between those two statements. Ministers such as the noble Lord, Lord Grimstone, whom we hold in high regard, are having to walk the tightrope between those policies, and I say gently to him: I think they will fall off.

It is not possible to square what is going on in China at the moment with a policy of expanding trade as if there were only "occasional political difficulties" when another part of the Government, and a large and increasing part of the international community, rightly say that there is prima facie evidence of a genocide and there must be consequences. The reason is not just because it is the right and humanitarian thing to do, although it obviously is, but because it is not a sustainable policy for this country to pretend on the one hand that we can boost trade and have business as usual with China while, on the other, there is ever greater evidence, which will become ever more prominent in the media, of an extreme situation in the western part of China that increasingly resembles a genocide.

2.15 pm

The previous time I spoke on this matter in the House, I pointed out that no British Government in modern history have ever declared a genocide while it was taking place. It never happened in respect of Hitler and the Jews or in respect of Turkey and the Armenians. My noble friend Lady Kennedy told me that it never happened in respect of Rwanda; it was only afterwards that we declared the genocide there. It never happened in respect of Stalin and any of his genocides. This is not a sustainable position for a country which claims to proclaim values and which wishes to see a more interdependent world, because there is simply no way that we, promoting our values as we do, can coexist with regimes which perpetrate genocide.

I say gently to the Minister that we respect the statement he has made to the House. We have moved in the right direction in these amendments, but I do not believe it is sustainable to say that we want steadily more trade, on more advantageous terms, with China but that we also propose to sanction China in respect of gross human rights abuses. You cannot have that particular cake and eat it at the same time. I hope that we can start to resolve this issue more effectively in the immediate future, lest we pay a much bigger price in the medium and long term. I beg to move.

Lord Alton of Liverpool (CB): My Lords, I declare an interest as the vice-chair of the All-Party Parliamentary Group on Uyghurs. The noble Lord, Lord Grimstone, was very generous to me in his opening remarks, and so was the noble Lord, Lord Adonis. It brought to mind EM Forster's book, *Two Cheers for Democracy*, in which he says that the justification of our political system is the curmudgeonly, awkward, cantankerous and difficult Member of Parliament who sometimes gets some minor injustice put right. I suspect that rather than being a force of nature, that is more descriptive of the kind of role that all of us who have the privilege of serving in your Lordships' House should take when it comes to causes such as this one.

As the noble Lord, Lord Adonis, has reminded us, what is happening in Xinjiang is certainly very close to a genocide. Terrible atrocities are occurring there and without a pathway to determine whether this is technically in breach of the 1948 genocide convention, nevertheless, many of us, without using rhetorical flourishes or hyperbole, are able to say: we believe that, accurately, this indeed is a genocide. I will come back to this.

This is not about individuals. This was not my amendment but the genocide amendment to the Trade Bill, and it was supported right across this House. Its support was bipartisan and from the Front Benches of the opposition parties but also from distinguished Members on the Government Benches. That was true in both Houses. A former leader of the Conservative Party was the principal sponsor in another place and it was supported last night in the Division Lobby by

the former Foreign Secretary, Jeremy Hunt. This is not about obscure people who are just trying to make life difficult for the Government; it is better than that. This is about a hugely important cause and it has been an honour for me to work with colleagues drawn from across the divide. In both Houses, there has been a coalition of significant players.

Ministers such as the noble Lord, Lord Grimstone, will doubtless be relieved that they have arrived at the touchline and that the Bill will shortly become an Act of Parliament. However, I would caution them if they assume that they have heard the last of the all-party genocide amendment. Last night, 300 Members of the House of Commons brought the Government within a whisker of defeat. That, and repeated majorities of over 100 in your Lordships' House, have demonstrated that as new genocides occur in places such as Xinjiang, this argument is far from over and is unlikely to go away.

By establishing a degree of parliamentary accountability in the way that the Minister outlined, the Government narrowly avoided defeat in the Commons. They have—and I welcome this—left a way open for Parliament to name atrocity crimes for what they are, enabling us to address our duties under the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide. The noble Lord, Lord Grimstone, said it was up to Parliament to decide exactly how to go about doing that. One possibility is a Joint Committee of both Houses. The Joint Committee on Human Rights is not a bad precedent, were we to go down that route.

In line with what the House of Commons decided yesterday, our House could, if it wished, establish its own ad hoc committee comprising former judges who now sit in the Lords. To determine precisely what a genocide is will take time, expertise and great knowledge of the law—things that this House is uniquely equipped to contribute. Such a committee should urgently evaluate the evidence of the genocide and atrocity crimes being committed against the Uighurs in Xinjiang. This is undoubtedly urgent, and I will write to the Liaison Committee urging it to think about the various options open to it.

Yesterday also saw three welcome harbingers of a change in mood music. First, some Ministers accepted the principle that they should not strike trade deals with genocidal states, allowing parliamentary oversight of trade deals with nations accused of genocide. I would like to hear a simple statement from the Minister that he too would oppose trade deals with any state credibly accused of genocide.

Secondly, we have also been told that changes strengthening supply chains will be made to the Modern Slavery Act 2015. That was repeated earlier during exchanges on the Statement by the noble Lord, Lord Ahmad of Wimbledon. It would be very helpful for your Lordships' House to know when that will happen.

Thirdly, ahead of the vote yesterday, the Government finally announced those Magnitsky sanctions. But they left out the organ grinders, such as Chen Quanguo, referred to by the noble Baronesses, Lady Kennedy of The Shaws and Lady Blackstone, during earlier exchanges on the Statement. He was the architect of the Xinjiang atrocities and indeed, before that, those in Tibet as well.

Like the famous curate's egg, the Government's response to the genocide amendment is there in parts. What is missing is a failure to remedy the policy that only a court can fully determine whether a genocide is occurring and there is no provision of a pathway or mechanism to do so. Undoubtedly, the parliamentary debates on the Trade Bill have exposed this argument for the sham that it is. Since earlier stages of the Bill a bad situation in Xinjiang has only got worse, as the noble Lord, Lord Adonis, rightly told us.

The outgoing and incoming Administrations in the United States have recognised this as a genocide. The Canadian House of Commons, the Dutch Parliament and others have declared it to be a genocide. A 25,000-page report by over 50 international lawyers says that it is a genocide, with every single one of the criteria in the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide having been breached.

Meanwhile, the BBC has been banned in China because it dared to broadcast the testimonies of courageous Uighur women who describe conditions in the concentration camps, including their "re-education", their rape and public humiliation by camp guards. Those women have been threatened, bullied and defenestrated publicly by the Chinese Communist Party, with their characters besmirched.

Speaking only last month at the United Nations Human Rights Council, the Foreign Secretary rightly said that what is afoot in Xinjiang is on an "industrial scale" and "beyond the pale". Earlier in the year he said

"frankly, we shouldn't be engaged in free-trade negotiations with countries abusing human rights well below the level of genocide."

In Committee, on Report and in various iterations during ping-pong, we have tried to address the discrepancy between the rhetoric and the United Kingdom's inability to make a declaration of genocide and whether we should continue business as usual. The reality is that some in government want to keep things as they are.

Just a week ago, during two sessions of a Select Committee of this House, key witnesses—a former Chancellor of the Exchequer, the former National Security Adviser and the former head of the Foreign Office on China—declined to say when asked whether trade should continue with a state accused of genocide. One said there was not enough evidence, another said the question was too political. One rejected suggestions that Britain should distance itself from China owing to its human rights record, saying:

"I see no British prosperity without a trading relationship with China."

Another said:

"There are many countries in the world with appalling human rights records with which we have had an economic relationship over many decades. That has been a traditional position of the UK".

But should it be?

Two hundred years ago, the foremost champion of free trade Richard Cobden, that great northern radical, said that free trade was not more important than our duty to oppose both the trade in human beings and the trade in opium. Today, the red line should be states involved in the crime of genocide. Genocide is not one of those "on the one hand this, and on the other hand that" questions; no balance needs to be struck.

[Lord Alton of Liverpool]

In 1948, Raphael Lemkin, who studied mass atrocities throughout the 1930s, was drafting the genocide convention. Nearly two years ago, I visited a site in northern Iraq at Simele, where Assyrians were murdered in a massacre that became a genocide. Raphael Lemkin described that, and he went on to experience the slaughter of all his extended family in the Holocaust: over 40 of his relatives were murdered. He coined the word genocide from "genos" and "cide"—"genos" being the family and "cide" being the destruction, the cutting of the family or any group that is part of it. The genocide convention came out of that. It was his way, and the way of nations, to ensure that the world would not witness atrocities like those committed by the Nazis again. But acts of genocide and atrocity crimes have continued to occur.

Since 1948, we have witnessed genocides in Cambodia, Rwanda, Bosnia, Darfur, northern Iraq and now in China, Burma, Nigeria and Tigray. That is not an exhaustive list. The response to these atrocities has always been inadequate. Whenever a genocide has taken place, there is a collective wringing of hands. But the promise to break the relentless and devastating cycles of genocide has never materialised.

In forcing Parliament to address these questions, I am grateful to all noble Lords who have helped to open the debate. I thank Members of both Houses and people outside of Parliament who have given so generously of their time in promoting and supporting this amendment. I must make special mention of the Coalition for Genocide Response, of which I am a patron, and the role of Luke de Pulford, who organised a campaign in the House of Commons. I also thank the clerks in the Public Bill office for their patience and help throughout.

The debate on the genocide amendment may now be drawing to a conclusion, but the debate it has raised in the country has begun and it will not end here.

Lord Collins of Highbury (Lab): My Lords, throughout the debate on this Bill, we have had a focus on ministerial accountability and parliamentary scrutiny. I would like to acknowledge that there has been movement by the Government and that has certainly been prompted by the Minister, who has been listening to us.

The noble Lord, Lord Alton, has been absolutely determined to ensure that these issues are brought to the forefront of our attention. What we have sought to do from these Benches is to complement the amendment of the noble Lord, Lord Alton. I also thank him for supporting my amendment to the Trade Bill on this issue. We wanted to ensure that there was a broad debate about human rights in relation to trade and for the United Kingdom's commitments to match its actions, including on human rights and international obligations.

My noble friend Lord Adonis is absolutely right: we want a proper joined-up government approach to end the position of one department condemning the actions of a country committing outrageous crimes against humanity while another department signs preferential—and I mean preferential—trade agreements. We cannot allow that to continue.

2.30 pm

My noble friend Lord Adonis is absolutely right to draw attention to the words of Boris Johnson on 12 February, when he stated that he was "fervently Sinophile" and determined to improve ties

"whatever the occasional political difficulties".

I do not think that the evidence we have heard from the noble Lord, Lord Alton—or from the Foreign Secretary, for that matter—is simply of "occasional political difficulties"; it is far more than that.

I also draw attention to the Minister's response to my amendment on human rights, when he highlighted the FCDO's annual human rights and democracy report, saying that it was the right place to report on human rights and trade. When we had discussions with the noble Lord, Lord Ahmad, on this issue, and he addressed Peers in the meeting several weeks ago, he said that the report would be strengthened to include a greater focus on trade, since, in my reading of that report over the last few years, there has been no mention of our efforts to secure trade agreements—obviously because of the new regime we are now in, in relation to leaving the European Union. It is even more important that, today, the Minister repeats to this House those assurances from meetings so that we can hold him and this Government to account on the commitments that they made in the progress of the Trade Bill.

It has always been reassuring to hear the Minister say, in consideration of the Bill, that trade does not have to come at the expense of human rights. We were particularly concerned when we saw the words of the Foreign Secretary reported in the press last week; we have to address those concerns. The fact of the matter is that what is happening to the Uighur population and the terrible crimes committed by the Communist Party of China should absolutely be at the forefront of our minds—but they are not the only human rights abuses. As we heard earlier today, there are other human rights abuses that we need to focus on, and we need to ensure that we operate consistently, putting our values at the forefront. I appreciate the sympathetic words of the Minister about the need for human rights to be taken into account, but, if we look at the words of the Prime Minister, we need more than sympathetic words.

I hope that, with the progress of the Bill through Parliament, we will be able to hold the Government to account on their words and commitments. I wish the Bill speedy progress. As the Minister said, when it becomes an Act, it will be a work in progress, and we need to deliver on that.

Lord Fox (LD): My Lords, before saying a few words, I apologise in advance. I have agreed with the noble Viscount, Lord Younger, and the other Whips that, if this debate extends beyond 3 pm—which looks exceedingly likely—I will withdraw and go to the Economic Affairs Committee, of which I am a member. I apologise for not being here, but I will of course read all the contributions in *Hansard*.

I wanted to speak because this topic started before we got to this Bill. The noble Lord, Lord Alton, others and I were debating an amendment not dissimilar to this one on a previous Bill, so I have been involved in

this for many months—most of the year, I would say. I know that the noble Lord, Lord Alton, did not intend this to be a lap of honour, and he will no doubt be modest, but he deserves great praise for his strength. Many of your Lordships have stood alongside him—colleagues on these Benches as well—but his moral leadership has kept us focused on this issue. Going forward, that support will continue to be important.

As other Peers have noted, there have been changes in the political landscape, as this issue has been debated—it has been changed by things such as these debates. There is widespread recognition and condemnation, here and internationally, of what is happening in China—but, sadly, as the noble Lord, Lord Alton, notes, the situation in Xinjiang has deteriorated rather than getting better. It is clear that, while the Government may repeatedly have won votes on this amendment, they are losing the wider argument about this issue.

Yesterday, we saw what some could describe as an 11th hour decision by Dominic Raab to slap sanctions on key senior Chinese officials involved, as we have heard, in the mass internment of Uighur Muslims in Xinjiang. Of course, the timing may have helped to swing the vote against the amendment of the noble Lord, Lord Alton, but it is to be welcomed. We also heard the Foreign Secretary implicitly denounce Beijing itself. However—and we have heard the rationale for this from the noble Lord, Lord Adonis—he fell short of using the word "genocide". That has been at the heart of this debate: acknowledging genocide when we see it and finding ways of characterising it. This has been, and continues to be, an important part of this debate.

As such, we should remember that the atmosphere for this comes soon after the integrated review, and many would say that the Government pulled their punches on China. The Foreign Secretary's words, reiterated by others, at best describe a moral ambiguity around the trade and genocide issue—the same ambiguity highlighted in the Prime Minister's words. We should be clear that that ambiguous situation is sitting around the Cabinet table today: the noble Lord, Lord Adonis, spoke about a balancing act and, yesterday, the former Chancellor, the noble Lord, Lord Hammond of Runnymede, was quoted as saying that there is too much naive "optimism", in his words, in

"assuming that the Chinese will allow us, as it were, an à la carte approach to the menu of relationships"

on trade and human rights.

As such, it is easy to detect why Dominic Raab and colleagues would want to, in a sense, target individuals, rather than the state—because that balancing act is coming through. Of course, the Government are desperate to fill a big hole in our export account, but your Lordships' House has repeatedly shown that we should not be this desperate. If what we see—as I think this shows—is that this ambiguous view is the actual view of this Government, then we have not seen the last of this debate, as the noble Lord, Lord Alton, said. Today is not a full stop in this debate; it is a semicolon.

The Deputy Speaker (Baroness Henig) (Lab): I will now call the following eight speakers in this order: the noble Lords, Lord Cormack, Lord Lansley, Lord Shinkwin and Lord Blencathra, the noble Baroness, Lady McIntosh of Pickering, the noble Lords, Lord Balfe and Lord Polak, and the noble Baroness, Lady Kennedy of The Shaws. I first call the noble Lord, Lord Cormack.

Lord Cormack (Con): Having been called first, I lead a very distinguished company; I am most grateful to the occupant of the Woolsack for that.

I have taken part in all these debates, and I have become increasingly impressed by the dogged, persistent leadership of the noble Lord, Lord Alton, who has carried the flag with distinction throughout and is certainly not laying it down this afternoon. I have also been very impressed by the way in which the Minister has sought to respond. Although he is new to your Lordships' Houses, I think he has a genuine understanding of how it works, and he certainly has a genuine understanding of the evil that has motivated those of us who have, on three occasions, formed part of a massive majority in your Lordships' House.

I use the word "evil" very deliberately. One thing that I have been doing during lockdown is to read, as I am sure we all have, and I read again the three volumes of the diary of Harold Nicolson dealing with the 1930s, the lead-up to the war and the war years themselves, then carrying on until 1965. Many of your Lordships will be familiar with those diaries but, if you are not, I warmly commend them. The theme—although he does not put it in those words—particularly in the diaries covering the period from 1937 to the outbreak of the war, is that democracy cannot and must not compromise with evil. If we do, we lose our democratic credentials. Of course, one of the great evils of history was the genocide perpetrated by the Nazi regime in the war, and we have seen other things in my lifetime. Stalin's purges began just before my lifetime and continued through. We saw terrible things happen in China under Mao Tse-Tung, and we have seen many others, in Rwanda and Bosnia—who can ever forget Srebrenica?—and with Pol Pot, as a noble Lord interjects from the back.

It is a challenge to democracy to repudiate evil. Although one may have to pay a price, which may be to lose a lucrative trade deal, there must never be compromise with evil. That, to me, has really been the theme of our three very passionate debates, and now we move towards the end. Of course, those of us who supported the various Alton amendments, as I shall call them, have not achieved all that we set out to do. But the Government have listened to a degree and have moved, as the noble Lord, Lord Collins, readily recognised a few moments ago. For that, we are grateful, but I do not consider that a great victory. What I consider is that Parliament, to which government is accountable and responsible, has impressed on the Government that there are certain things in the immortal words of the great Churchill "up with which we will not put". So this Bill is going to go on to the statute books significantly different from how it was when it was brought to your Lordships' House, and with a recognition on the part of the Government that genocide is indeed evil and that anything approaching genocide must make us very careful about what we do.

2.45 pm

There is a certain ambivalence between the statements of Dominic Raab, which I warmly welcomed yesterday, as did the noble Lord, Lord Adonis, and the one where

[LORD CORMACK]
the Prime Minister talked about trade with China. I give the Prime Minister's remarks about being a Sinophile a charitable interpretation, because what I hope he really meant is that he is, as I am—and I believe all your Lordships probably are—an admirer of ancient Chinese civilisation, which is the oldest surviving civilisation in the world and has achieved great things. However, that does not mean that it should be translated into any sort of admiration for the frankly evil Communist Party regime that exists in China at the moment. China is going to be the dominant power towards the end of this century and is already one of the dominant powers in the world—but look at its record, with the belt and road, and giving aid to buy influence and to subvert. Even we are in danger of Chinese subversion, and we have to recognise that. If we do not, that will be to our own peril.

There are two fundamentals of our unwritten constitution. One, of course, is that the Government are answerable to Parliament, no matter what their political complexion and no matter what Parliament's political complexion. The other is that the unelected House must in power be subordinate to the elected House. I am a passionate believer in your Lordships' House, a House of experience and expertise, but I am also a passionate believer in the ultimate supremacy of the other place, in which I had the honour to serve for 40 years. That is why I would not have personally countenanced a vote today. We have given it its chance to think again and to some degree it has. The Government must surely have been influenced by the concerns of people like former Secretary Hunt, Iain Duncan Smith and others. At the end of the day, they have said, "No, we won't take all you're trying to give us from the second Chamber", so we must with reluctance accept that, while being thankful for the crumbs that have fallen from the masters' table.

Although we are a subordinate House in political power, we are a unique House among the second Chambers of the world. There is no other Chamber as large—and, of course, many of us believe that we are too large. The Campaign for an Effective Second Chamber, which I have chaired, assisted by my noble friend Lord Norton of Louth, for almost 20 years now, has campaigned on that—but that is another issue for another day. But we are unique in the extraordinary accumulation of legal wisdom. I talk not just of those who have held high judicial office, important as they are and respect them as we do. We have such Members as the noble Baroness, Lady Kennedy of The Shaws, who brings extraordinary wisdom to this subject. I hope that the Alton suggestion, made towards the end of the noble Lord's admirable speech, will be acted on, the Liaison Committee will look at it, and we will have a committee composed largely or wholly of judicial Members. I would like to see a Joint Committee of both Houses, because I believe in the two Houses working together. We are embarking on a journey, which must not end in the victory of those who perpetrate evil.

Lord Lansley (Con): My Lords, I am glad to follow my noble friend. I want to focus on the point that he rightly makes about the Government's accountability to Parliament and, in particular, the question of how they are going to be accountable to Parliament. I join the tributes to the noble Lord and others, including in the other place, who have put the arguments extraordinarily well, which will be sustained into the future. I also pay tribute to my noble friend on the Front Bench, not least for the constructive way he has approached all our debates throughout the consideration of this Bill.

First, before I get on to Parliament's accountability, the Foreign Secretary, in exchanges on the Statement yesterday in the other place, said:

"the arguments around genocide and the importance of its being determined by a court are well rehearsed."—[*Official Report*, Commons, 22/3/21; col. 625.]

They may have been rehearsed, but they have not been resolved, and that is important. I cannot compare with the descriptions in our previous debates by the noble Baroness, Lady Kennedy of the Shaws, who will speak in a moment, but the questions that she set out of which court, under what circumstances and by what processes genocide will be determined are absolutely instrumental. It will not be in this Bill or the Act, but we need to keep pressing on that issue.

In this Bill, not least by virtue of Sir Bob Neill's amendment, which we now see as Amendment 3C, we have a process. We have set up that process, it is important and we need to get it right, but I want to illustrate to your Lordships that it is not sufficient. Let me give two examples. First, it relates to free trade agreements; it does not relate to our treaty-making processes in general. We will come back to this regularly, but I think we are beginning to realise, not least after leaving the European Union, that we are making treaties to a greater extent and with greater importance than previously. Parliament should play a central role in those processes, which brings me to the point that my noble friend was making about how the Government are accountable. They should be accountable, but in some respects they are not, because the exercise of the prerogative means that we are not, in Parliament, involved; we simply receive. Where free trade agreements are concerned, we are going to be involved.

Secondly, Amendment 3C refers to a "prospective FTA counter-party." What is that? It is a state with which the Government are in negotiations relating to a bilateral free trade agreement. We have all been hearing the debate about China. The Government are not in the process of negotiating a bilateral free trade agreement with China, so the question does not arise. If the Government were to enter into a bilateral investment agreement with China, would that qualify under this amendment? I think the Government would say not. If China were to seek accession to the Trans-Pacific Partnership—of which, in due course, we hope to be members—would that qualify under this amendment? I think the answer is that it would not. So we could enter into a substantive, wide-ranging free trade agreement with China without this amendment ever being invoked.

The proposition I generally make, as a member of the International Agreements Committee, is that we have an instrument in this House that I hope we will use actively to examine not only bilateral free trade agreements but the whole structure of free trade agreements and international treaties and agreements. Not neglecting the Grimstone rule, which relates to free trade agreements, we should bring forward reports

on the negotiating objectives and give at least this House—and, probably by extension the other place, by remarking on what we say—the opportunity to do what my noble friend said, which is say what Parliament will not put up with. That is really important. It may not be written into law at this stage—although I suspect that it ought to be one day—but it will be a further important step in moving the public debate. Although it is not in this Bill, which will be an Act, we should be active in considering by what means we exercise scrutiny of international treaties, trade agreements and agreements generally.

Lord Shinkwin (Con): My Lords, it is a pleasure to follow my noble friend Lord Lansley. I, too, pay tribute to my noble friend Lord Alton for the way he has brought noble Lords together in support of the Muslim Uighur people and the crucial principle of our common humanity.

I have only two points to make. First, I am saddened by the Government's position, because the genocide of the Muslim Uighur people cannot be swept under the carpet as the Government's rejection of the amendment passed by your Lordships' House implies. The reason is simple: to be able to sweep an issue under the carpet, one has first to be able to lift the carpet. The carpet is too heavy to lift, because it is saturated with the blood of the Muslim Uighur people, who, as we have heard, are being subjected to genocide by the Chinese Communist Party regime for the supposed crime of being Muslim.

Secondly, in a few weeks' time, on 6 May, Muslims will vote in the local elections. I trust they, and all who care about human rights, will ask their candidates what their party is doing to stop the genocide of the Muslim Uighur people.

Lord Blencathra (Con): My Lords, first, I apologise for joining the debate about three minutes late. I was in a minor road traffic accident with a slowly reversing delivery vehicle. While my chariot has a few scratches on it, I do not, so I live to fight another day.

I congratulate all Peers on the superb speeches we have heard yet again today, and I thank the Minister, who has been exemplary in his courtesy in dealing with us troublesome Peers making the amendments, for his patience in defending the Government's position. But I simply do not understand why the Government I support, which are so robust on so many matters, are so lily-livered when it comes to China—or the dictatorship of the Chinese Communist Party, to be more precise.

As the noble Lord, Lord Adonis, said, we all know and understand that we have to trade with China for the time being, because we get too many vital supplies from them, and we do not yet have sufficient alternative resources onshore. So it is legitimate to say, in the medium term, and possibly even in the long term, that we have to carry on trading; and calling China a trading partner is legitimate. But in this House, the Foreign and Commonwealth Office has described China as a "strategic partner"—the terminology that we would usually use to describe a NATO ally, not a country behaving as China does.

What does China do? This so-called strategic partner of ours has destroyed what remains of democracy in Hong Kong and removed all human rights. It is stealing sand banks in the South China Sea and turning them into military bases. It is threatening all its near neighbours. It is increasingly flying armed aircraft sorties into Taiwan's airspace. It is building up massive military forces capable of invading Taiwan in the future. It has lied and lied again about the origins of Covid. It has launched a trade war with Australia, which had the effrontery just to ask for an independent inquiry into the cause of Covid—something we have never done. It has a massive cyberwarfare capability and has used it against companies and government organisations of the United Kingdom. It is running concentration camps in Xinjiang province, with up to 1 million people detained. It has been accused of genocide by Canada, Holland and the United States.

As the noble Lord, Lord Alton, said again in his excellent speech today, last week, more than 50 lawyers published a 25,000 page report stating that every single article in the Convention on the Prevention and Punishment of the Crime of Genocide had been broken by the Communist Party in Xinjiang. These are not the actions of a strategic partner; these are the actions of a hostile state.

3 pm

The integrated security review rightly identified Russia as a threat, in terms of seeking to interfere in elections, issue fake news and murder individuals whom Mr Putin dislikes, but Russia is not capable of waging all-out war on a massive scale: China is building up the capacity to do that in future. China is not, as the review says, "a systemic challenge"; it is a clear and present danger and a threat to world peace. It is not a military threat to the United Kingdom yet, but how are we going to trade within the Trans-Pacific Partnership Agreement, if we join it, if we cannot keep the South China Sea open to all world trade? Why are we so afraid of calling out China for the threat it actually is?

In 2019, we exported £30 billion-worth of goods to China and imported £50 billion. Are we afraid that, if we denounce the genocide taking pace in that country, China will stop exporting to us and give up on its huge trade surplus? The FCDO said in an answer to me:

> "We do not hesitate to raise concerns and intervene where needed … We will hold China to its international commitments and promises."

What does that mean in reality? China, I fear, sees us as a country which calls it "a strategic partner" and merely "a systemic challenge". It sees that we do not even bark, let alone bite.

The FCDO says that it raises concerns where needed. I think my noble friend Lord Cormack referenced Dad's Army when he said, "We're doomed", the words of Private Frazer. I too shall reference Dad's Army, but in the words of Sergeant Wilson—older Peers will remember Sergeant Wilson—because that is how I imagine that the FCDO speaks to China. "Er, I'm terribly sorry to have to mention this, but is there any way you could see to it, if it is not too inconvenient to you, to possibly be a tad nicer to those Muslim chappies up there in that province? And, of course, if you don't want to do it, that's all right." Okay, I may be making that sound a bit farcical, but I would love to know what the FCDO actually says to China when it says it calls them out on their human rights abuses.

[Lord Blencathra]

Of course, yesterday, we rightly praised the Foreign Secretary when he announced sanctions against four people in China for what he called

"appalling violations of the most basic human rights".—[*Official Report*, Commons, 22/3/21; col. 621.]

Yesterday, the United States also imposed some sanctions and said:

"China continues to commit genocide and crimes against humanity."

I think we can all see the slight difference in language between what we said and what they said. We need to signal that we mean business, and even the constantly watered-down amendments we have sent back to the other place send a signal that we take genocide seriously and we mean more than just feeble words.

As noble Lords will patently see, I am no Cato, and I am not ending my speech with a modern equivalent of "Carthago delenda est", but I do say that we need a new expression: "China must be challenged". The Government may have killed the amendment in the other place last night, but we have one measure we can take forward. As the noble Lord, Lord Alton, and others have said, this issue will not go away. Sooner or later, the Government will have to screw their courage to the sticking point, or we shall all fail.

Baroness McIntosh of Pickering (Con): I am delighted to follow my noble friend and I hope he is completely injury-free and that his chariot will be repaired at the earliest opportunity so that he maintains his mobility. I am full of awe and praise for the noble Lord, Lord Alton. I watched him with great admiration in the other place and I think that, if anything, he has come into his own in this place, so I pay huge tribute to him and those who have supported him in this. I also pay tribute to the Minister. I know there will be some disappointment on a particular aspect, but the Bill will definitely leave this place better than it was before.

I have a specific question about the sequencing of the reports that we are now going to have as trade agreements are being negotiated. We know that the Secretary of State is going to do a report, taking into account the report from the Trade and Agriculture Commission, which I am delighted now has a statutory basis and is on a more permanent footing. That report will come and the Government will presumably find time for it to be debated. I would like to understand better the sequencing of that report with the report that we have agreed today will also come forward if the responsible committee in the House of Commons publishes a draft report and is not satisfied with the Secretary of State's response. Will the sequencing permit both reports to have been prepared and debated in Parliament before, as my noble friend Lord Lansley said, the free trade agreement is signed by the Government and ratified by Parliament?

The Deputy Speaker (Lord Alderdice) (LD): The noble Lord, Lord Balfe, has withdrawn, so I call the noble Lord, Lord Polak.

Lord Polak (Con): My Lords, I am pleased that this Bill will become law, because it is important for the welfare and prosperity of this country. I pay tribute to my noble friend Lord Grimstone, the Minister, because he has listened and understood. I am grateful, too, to the Foreign Secretary for the limited sanctions announcement yesterday. It is progress. I also agree with a number of noble Lords that the ad hoc committee comprised of former senior judges in your Lordships' House is an excellent idea; I look forward to seeing it become a reality. As I said earlier, I pay tribute to the 29 so-called rebels in the other place; 29 Members who have shown their humanity and voted in support of the genocide amendments. It is also clear to me that many other honourable Members of my party would have voted the right way had whipping pressure not been exerted.

On 23 February, I referred to the festival of Purim and the role that Queen Esther played in saving the Jewish people from genocide. Fortunately, there are many festivals in the Jewish calendar: this weekend, we celebrate the festival of Passover and we recall that Moses, on behalf of God, appealed to Pharaoh to "let my people go". My appeal is that the Uighur Muslims are free to go, and free to live their lives in peace and prosperity. That will clearly come about only if we continue to apply pressure, and I will continue to follow the lead of my friend, the noble Lord, Lord Alton, who has just celebrated his seventieth birthday. I wish him a happy birthday. It is a Jewish tradition to wish a person "many more years, up to 120", which gives him another 50 years of great humanitarian leadership.

Baroness Kennedy of The Shaws (Lab): My Lords, I want to mention "Catch-22". Many noble Lords who are old enough will remember that this is a novel by Joseph Heller that was made into a film. The title refers to a certain rule whereby you might not be required to take part in war if you are mentally impaired, but if you say that you are mentally impaired, it shows that you are not really mentally impaired, so you cannot claim this particular way out. I think we are infected here with the same thinking. Catch-22 is a problem whereby the only solution is denied because there is a rule that cannot be fulfilled. That, of course, is what we keep hearing repeated by the Foreign Secretary and Ministers: that the proper place to determine whether genocide is taking place is a court of law, a competent court, but the problem is that there is no competent court able to do so.

I have mentioned this before, and the noble Lord, Lord Lansley, referred to it again: there is no competent court because using the International Court of Justice, which would normally determine whether a genocide was taking place, would involve one nation taking another nation before it. However, unfortunately, China has put in a reservation to the treaty establishing the court. A reservation is

"a declaration by a state made upon signing or ratifying a treaty that the state reserves the right not to abide by certain provisions of the treaty."

So, the idea that China will say, "Yes, of course, take me to the International Court of Justice", and not claim its reservation, is risible, as we all recognise.

The other international court that might be able to deal with a matter of genocide is the International Criminal Court. But, as distinct from the International Court of Justice—a nation-to-nation court—this is

a court where individuals can be brought and held accountable for serious, egregious crimes against humanity, and indicted for genocide. However, as I said, it is individuals who are brought there. The treaty of Rome, which brought that court into existence, involved nations signing up to its jurisdiction; China did not sign up.

So, there is no international competent court to which China can be brought. Determining whether a genocide is taking place is beyond the capacity of the international courts. So what were we to do? That is why the different possibilities were presented by the noble Lord, Lord Alton, in amendments to this Bill, and supported by many in this House. The suggestion was: with our courts and competent, able judges—and with one of the great prides of Britain being our legal system and senior judiciary, admired throughout the world—who better than judges in one of our own courts to determine whether there was a genocide? The alternative when that proposal failed was to say, "Well, what about getting our most senior judges, who sit in this House in retirement, to come together, look to the evidence, measure it and decide whether it reaches the standard threshold, which is high, to determine whether a genocide is taking place?"

Unfortunately, we are left with very little. International law has acquired new teeth in the form of sanctions; I mentioned them in an earlier short debate. The fact that sanctions are now being used is to be welcomed. I would like to see our Foreign Secretary and Foreign Office at the forefront in persuading nations around the world to establish regimes to deal with international law in the same way: by creating sanctions regimes, as we, the United States, the European Union, Canada and other countries have done.

Many noble Lords know that I run the International Bar Association's Human Rights Institute. We engaged with Japan, Australia and other countries and sought to have them join this union of democracies in creating a sanctions regime to deal with serious breaches of international human rights. We are making some progress, but it is a source of great regret to me that we have not decided to confront what the noble Lord, Lord Lansley, referred to as this dilemma, this serious problem, that we have no venue to which we can bring this serious allegation of genocide. By and large, therefore, China can get off scot-free.

We must have serious mechanisms for dealing with this. I hope that the Government are listening to the sensible and serious suggestions being made by the noble Lord, Lord Alton. They could take different forms, such as a Joint Committee of Parliament or a committee of our judges in this House established by this House. We have the power to make that happen. So, yes, we are seeing some advances being made but, really, they are very slow and very small.

3.15 pm

I have one other thing to say, which is on targeted sanctions. Go after the people who have the power. Go after the people who have salted away money and assets in different places. Go after them. Deny them visas. Make it uncomfortable for them. Shame is something that matters to the powerful. That is the purpose of targeted sanctions, but, so far, we have tended to use them in rather meagre ways—not for the top guys but for the people in middle-ranking positions. We have to use them. Many noble Lords knows that I was involved in the investigation into the murder of the journalist Jamal Khashoggi. All the evidence points to where that decision to murder came from, yet we are not using targeted sanctions against the man who authored that horrible assassination and dismemberment. We are not using these sanctions in the way we should be in relation to Hong Kong, Belarus and other places.

So I urge the Foreign Office to take up that challenge. The mantra being used now is that we are "global Britain"—having exited the European Union, here we are as global Britain. What does that mean? How do we have our stature, small nation that we are, in the world? We have many things that we can be proud of, but one of them is to do with law and having values that have meaning and moral authority. We really must use that, because it is where we can have traction in the world. It does not mean that you do not trade, of course, but it does mean that you stand by the things you believe in.

I urge our Foreign Office to do this thing of joining up its policies on trade with its policies on aid. Regrettably, I am watching a diminution of trade to places where we should be putting some funding to preserve the rule of law and make it possible for people to create real democracies. Instead, we have China doing it all across Africa in its belt and road policy—which means, of course, that it has the backing of all those indebted nations when it comes to any international debate about calling China to heel. What a mistake we have made in allowing that to happen and not being the people who are helping the development of Africa, Pakistan and the other such places that are now in China's pocket.

So I say to the House that I am glad that we are making a bit of progress, but it is not enough. This will come back, and I hope that the Foreign Office, our Foreign Secretary and his Ministers will find good ways of making our standards real.

The Deputy Speaker (Lord Alderdice) (LD): Before I call the winding-up speakers, does anyone else in the Chamber wish to speak? No? Then I call the noble Lord, Lord Purvis of Tweed.

Lord Purvis of Tweed (LD): My Lords, it is a pleasure to follow the noble Baroness and endorse the points that she made. This may be the final debate on this issue for the moment, but it has nevertheless been a strong one.

In my mind, the noble Lords, Lord Lansley and Lord Adonis, got to the nub of the issue: the dilemma that we face when we seek to trade with countries that move away from the human rights standards that we seek. However, that dilemma is not new; what is perhaps new is the scale of it over the past few years. I remember clearly when, as a Member of the Scottish Parliament, I and a number of committee members shook hands with the Dalai Lama on a visit to Edinburgh. An official Government of China communiqué said that the economy of Scotland would be harmed as a result of this handshake. This was 15 years ago, so there is no new element of the line—as the noble Lord, Lord Adonis,

[Lord Purvis of Tweed]
put it—that the Foreign Office has trodden for a great number of years, in raising human rights aspects but also seeking to increase trade with the largest trading country in future.

The noble Lord, Lord Lansley, indicated that it is not just FTAs that cover this gamut. I am interested to know whether the Minister at the Dispatch Box can confirm that the Office for Investment, set up and chaired by the Prime Minister, is not proactively seeking investment agreements with China at the moment. If the Minister can confirm that, that would be reassuring, because it would be a live-time example of whether or not a government office chaired by a trade Minister is seeking new financial trading relationships on a preferential basis with China. If the Minister could confirm that in his winding-up speech, I would be grateful.

Perhaps it is different now because the tightrope—as the noble Lord, Lord Adonis, called it—is impossible to straddle because of, as the Foreign Secretary said, the

"industrial-scale human rights abuses."—[*Official Report*, Commons, 22/3/21; col. 622.]

The question is what consequences there are in our trading relationships with preferential trade. Sir Geoffrey Nice, who is held in very high regard in this area, communicated with me and my noble friend Lady Northover today. He said something in his email which I asked his permission to quote as it really struck me. He reflected on the fact that, in my opinion, somewhere in the last two generations we have lost something. He said that we should understand and recognise that human rights exist for and should be honoured by

"every citizen of the world for every other citizen of the world, not just sometimes by some governments when it suits them."

Some people argue that trading relationships are between businesses and people and treaty-making and diplomacy are Government-to-Government, but now, in this very interconnected and complex trading world in which we live, with comprehensive trading agreements, investment partnerships and strategic alliances, there is a wide gamut of preferential terms of access to the UK financial sector, the UK market or areas where we have sought the competitive advantage of China's massive industrial and commercial manufacturing base.

It is the moral ambiguity that my noble friend Lord Fox and others have indicated at the heart of this Government's policy that we have been highlighting. I would go further and say that there is a degree of intransigence and contradiction at the centre of the Government's policy in this area. One contradiction is that the very approach outlined by the Minister today at the Dispatch Box and in his letter this afternoon, in which he describes the process now going forward, is against the mechanism that he and the Government have indicated for other trading agreements, and parliamentary approval is against UK constitutional approaches with regard to scrutiny. We cannot have both, so I hope that the Government will see that opening up scrutiny and allowing greater parliamentary say, as the noble Lord, Lord Lansley, indicated, is of benefit, not against UK constitutional approaches. In my view it should be one of the core elements of the UK constitutional approach that Parliament has a key role in these areas.

I share, as have others, my noble friend's perseverance on this issue and that of those on the Government Benches in the Commons who have consistently told the Government to think again. On our Benches, Alistair Carmichael and Layla Moran were part of a wide coalition that will not now go away. The debate that has been started—the persistence and the perseverance—indicates that there will need to be much greater comprehensive elements in the Government's approach to trade and human rights. We have said repeatedly that there should be a trade and human rights policy that outlines the Government's policy, with triggering mechanisms that will suspend bilateral agreements, not just FTAs, when there are significant human rights concerns.

There needs to be a triggering mechanism, because we know that the nuclear option of cancelling all trade with a country should be reserved for the most grotesque situations, as we have been debating. However, there are other situations where we wish to use UK preferential market access as a lever around the world. It is a contradiction because we have moved away from an approach, which we were party to in recent years as part of the EU, of having triggering mechanisms to suspend bilateral agreements when countries are in breach because of significant human rights concerns. Indeed, there is a contradiction at the heart of what the Government are currently doing by reinstating preferential terms for Cambodia while the EU had withdrawn them because of human rights concerns. This Government have reinstated them without any indication of why.

When it comes to wider aspects of the partnership agreements, strategic alliances and other preferential areas, as mentioned by the noble Lord, Lord Lansley, in response to the Statement earlier today, I asked the noble Lord, Lord Ahmad, whether any of our current preferential trading agreements with China have been suspended as a result of the alleged genocide against the Uighur community in China. It is quite clear that the noble Lord, Lord Ahmad, did not have an answer in his briefing pack—if he had, he would have said so—so I hope that the Minister for Trade will give an indication of whether we have indicated that any preferential trade agreements with China are now open for suspension.

As the noble Baroness, Lady Kennedy of The Shaws, indicated, it is now time to open the debate about moving some of these decisions away from Governments. If this Government are refusing to, or perhaps any Government cannot, tread the line the noble Lord, Lord Adonis, indicated, of making decisions about suspending trading relations or preferential trading relations when there are gross human rights abuses, now is the time to start debating whether the UK should have an independent trade and human rights commission, not only for the sanctions regime but for other areas of new trading relationships.

When the noble Lord, Lord Alton, was a very young MP for Liverpool—I hope he will not mind me saying so since it was his birthday recently—he was a street campaigner and coined one of things that every Liberal campaigner, including me, has copied since, which was a slogan on the focus leaflets: "A record of action, a promise of more". We have seen his record

on this issue. I know there is a promise of more. As a veteran of three trade Bills in three years, I will not say goodbye to this issue but "Au revoir" until the next one. Inevitably there will be one. These issues—the contradictions at play and the moral ambiguities—need to be ironed out. This House and many others will do our best to do so.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, this is the last round on the Trade Bill—for the moment, as has just been said—and, as my right honourable friend the shadow Secretary of State said in the other place, it has taken

"three years, two months and two weeks"—[*Official Report*, Commons, 22/3/21; col. 668.]

to get to where we are today, which is quite a record and may indeed be worthy of the *Guinness Book of Records*. Given the length of time we have been involved in this, it is appropriate to thank all involved in this parliamentary marathon, not least both Ministers, the noble Baroness, Lady Fairhead, and the noble Lord, Lord Grimstone. Of my colleagues, I make special mention of my noble friends Lord Grantchester, Lord Bassam and Lord Lennie and, in particular, my noble friend Lord Collins, who has been taking the weight over the past few weeks while we have been discussing this issue and hoping for a better resolution than we have got.

I also thank the noble Lord, Lord Lansley, for his work in trying to forge an amendment on scrutiny issues that we could persuade the Government to accept. As he said, we have not got there yet, but it is a work in progress and I am sure we will get there eventually. The noble Baronesses, Lady McIntosh of Pickering and Lady Jones of Moulsecoomb, were instrumental in keeping the pressure on in relation to non-regression of standards. I pay tribute to them for their tireless work on that, and I pay particular tribute to the noble Lord, Lord Alton, who has been much in our thoughts in the past few weeks, particularly today. He again made a wonderful speech and covered the ground so carefully and so well that we cannot forget the issues that we have in front of us.

In almost three and a quarter years, trade policy has been transformed from being a largely commercial issue handled at arm's length, because it was dealt with in policy terms by the EU, to being a central policy driver as important to the people of this country as every other mainstream policy—arguably more so, because trade deals that we sign in the future will shape who we are as a nation and how we will be regarded as a partner, even though we have made a bit of a bad start on that.

In some senses, the narrow issue which, sadly, is being determined today in favour of the Government, against the strong wishes of your Lordships' House over three successive ping-pongs, is a measure of how much further we need to go to complete the work of creating an appropriate structure for the determination of trade policy in this country in the future. I think the noble Lord, Lord Lansley, pointed out rather effectively the gaps that already exist in the new arrangements; they are not as comprehensive, and certainly not as complete, as we would wish. But he also urged us, rightly, to make the new system work and to learn the lessons from the activity in the committees and in Parliament when we are able to do so, which will allow us to inform future debates and discussions.

3.30 pm

I am sure that when the Minister responds he will say how much progress we have made—in fact, he has already touched on this—in setting out where there should be non-regression of standards; in parliamentary scrutiny; in reforming the CRaG system, although it has been hardly touched; in setting up the TRA and the TAC; and in signing up to the GPA—the government procurement agreement. While it is true that we have hammered out a modus vivendi which will see us through the next few years, there are issues which still need to be resolved if we are really going to get confident about how we determine our trade in the future.

I am at heart an optimist, so I take the view that the experience gained in the last three and a quarter years already spent on the Bill will be added to by the experience gained by the International Trade Committee in the other place and the International Agreements Committee of our own House. Perhaps these reports and debates will finally convince the Government that Parliament has a constructive role to play in this process—one which can and will aid the Executive as they set up the trade agreements and treaties which are so urgently needed in this brave new world.

Lord Grimstone of Boscobel (Con): My Lords, in my closing remarks there are just a few points I would like to focus on. First, I am sure we would all agree that the tone of debate in this House has been excellent throughout the passage of this legislation. It is a testament to this House that we have been able to have these debates, and noble Lords should be proud of the improvements they have made to the Bill. I would like very much to join with the noble Lord, Lord Stevenson, in thanking all the noble Lords and officials who have helped us to reach the point that we have done today.

In some areas, the Bill is not recognisable from the one that we started with. In particular, I believe that we have demonstrated through our words and actions during the passage of the Bill that trade does not have to come at the expense of human rights. Indeed, I think if one wanted a fitting short title for the Bill, given the point that we have reached, that would be a perfectly admirable one: "Trade does not have to come at the expense of human rights". Speaking personally, I find it impossible to envisage the circumstances in which Parliament would agree to any trade deal to be done with a country that is found to have committed the evil of genocide.

The noble Lord, Lord Collins, raised the issue of the content of the FCDO's *Human Rights and Democracy* report. Of course, the Foreign Office publishes that report annually, and it touches on many relevant issues, including matters concerning human rights in the context of business and the private sector. I understand completely why the noble Lord has raised these points, and I will look to see whether this can be enhanced in further reports.

The noble Baroness, Lady McIntosh, asked about the timing juxtaposition of reports produced under the Agriculture Act and any reports produced under today's

[Lord Grimstone of Boscobel]
amendment. I am afraid to say to the noble Baroness that, as no process has yet been put in place in relation to reports being produced under today's amendment, her question is unanswerable.

In reply to the noble Lord, Lord Purvis, I can confirm that the Office for Investment is not in the process of negotiating any investment agreements with China. Again, I can also confirm that we have no preferential trade agreements in place with China.

The noble Lord, Lord Alton, himself stated in one of our earlier debates, with a memorable reference to Banquo's ghost, that the reason he was tabling an amendment was so that the other place could take up the baton and adapt and improve his amendment. Similar statements were made by my noble friends Lord Blencathra and Lord Lansley, and the noble Baroness, Lady Smith of Newnham. This place has discharged its duties by asking those in the other place to reconsider; they have reconsidered and sent back an amendment.

I believe that the amendment passed for the second time by the other place is a reasonable and proportionate compromise that will ensure that the voice of Parliament is heard loudly and clearly on this vitally important issue going forward. The decisions to be made on future trade agreements are, of course, political decisions to be taken by the Government, but with appropriate oversight from Parliament. This is what the amendment before us now guarantees, and noble Lords can and should take pride in the knowledge that the Bill might very well not have contained such guarantees—indeed, I will go further and say that there are no circumstances in which the Bill would have contained those guarantees were it not for the sustained and passionate representations that Members on all sides of this Chamber have made over recent months. Again, I believe that the House can take pride in that, and I offer my sincere gratitude to all Members who have contributed to the debates we have had on this issue.

I hope that noble Lords can now come together to support the Government's approach, pass this amendment and progress this Trade Bill on its way, at long last, to becoming a Trade Act, content in the knowledge that we have fulfilled our constitutional obligations and—if I may say—have done so in the most searching, diligent and passionate manner. I say to noble Lords that they have undoubtedly made this a better Bill.

Lord Adonis (Lab): My Lords, I beg leave to withdraw my amendment.

Motion A1 withdrawn.

Motion A agreed.

Registration of Marriages Regulations 2021

Motion to Approve

3.37 pm

Moved by ***Baroness Williams of Trafford***

That the draft Regulations laid before the House on 22 February be approved.

Relevant document: 48th Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Home Office (Baroness Williams of Trafford) (Con) [V]: My Lords, these regulations amend the Marriage Act 1949 to enable the introduction of a schedule-based system for the registration of marriages in England and Wales, which will reform the way in which marriages are registered in the future.

Couples will sign a marriage schedule at their marriage ceremony instead of a paper marriage register, and all marriages will be registered by registration officers in a single electronic marriage register. For marriages taking place in the Church of England or the Church in Wales, after ecclesiastical preliminaries an equivalent document called a "marriage document" will be issued. This will remove the requirement for the 84,000 paper registers currently in use in register offices and around 30,000 religious buildings.

It should be noted that a schedule system is already in place in Scotland—this has been the case since 1855—and in Northern Ireland. When civil partnerships were introduced in England and Wales in 2005, the opportunity was taken to modernise the registration process and use a schedule-based system. Civil partnerships have always been registered in an electronic register.

Modernising the registration process facilitates updating the marriage entry to allow for the details of both parents of the couple to be recorded instead of just the father's name and occupation, as is currently the case. Moving to a schedule-based system is the most cost-effective way to achieve this change and will make the system of registration more secure and efficient.

The regulations amend the seldom-used Marriage of British Subjects (Facilities) Acts 1915 and 1916 so that they no longer apply in England and Wales. The regulations also make a consequential amendment under Section 5 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 to amend the Marriage Act to specify the evidence that must be provided by an individual when giving notice of a marriage for immigration purposes. I beg to move.

3.40 pm

Baroness Sherlock (Lab) [V]: My Lords, I declare an interest as a priest in the Church of England, one of a small number of Lords temporal who conduct marriages, and so directly affected by these regulations. I hope that this is one of those times when an inside view will add something different.

These regulations make two significant changes to the way in which marriages are registered in England and Wales. I am not opposing them, but I have had representations from clergy worried about the lack of notice. One said:

> "We feel a bit stunned about the timing of these changes. We were told some time ago that they were planned and then everything went quiet, and it seems like a strange time to be introducing them now, with a very short lead-in time, with many churches just reopening and the Covid guidance on weddings (and other things) likely to change again soon."

Another said that it was proving difficult, as he was

> "trying to tell brides what their ceremonies will look like now as we have a bulge of weddings in this middle of the passage of this legislation. Not enough time for transitional arrangements."

The registration process changed on 4 May and, a few weeks later, these regulations changed the processes for marrying people subject to immigration control.

EEA citizens without settled or pre-settled status will no longer be able to be married after the calling of banns or the issuing of a common marriage licence, but will have to give notice at a register office and be issued with a superintendent registrar's certificate. This has been the process for other foreign nationals since 2015, but these changes are likely to result in a significant increase in weddings where clergy have to use this new process because so many weddings of EEA nationals take place, as opposed to others. Can the Minister help me explain to clergy why, two years after the primary legislation went through, they are getting so little notice?

Secondly, where is all the guidance? I met a wedding couple just last Wednesday to discuss their wedding, and at that point there was no official guidance or training available. The training has since appeared, but it is just a series of slides with someone reading a script in the background, and only clergy may watch it, even though in many parishes, lay people are involved in taking wedding bookings; that is from the GRO. Can the Minister explain why?

It is good that mothers' names can be recorded in the register. The training touches on this and helpfully says:

"In some cases questioning the parentage of a bride or groom may give rise to upset, and the aim of our guidance will be to ensure that any questioning on this aspect is done well before the marriage and not on the day itself."

I am sufficiently well trained that I was not planning to question the parentage of a bride or groom on their wedding day, but if it is to be done well before the marriage, where is the guidance? We are assured that *Guidance for the Clergy* will be updated in advance of going live, but it was not on GOV.UK yesterday. Can the Minister tell the House when it will be issued?

Finally, when the marriage document or schedule is signed, the regulations say that the clergyman—sic—has a legal duty to get it to the local register office within 21 days. By the way, why can it not say "clergyperson"? Can the Minister confirm that the legal duty falls on the clergyperson who officiates at the marriage, not the vicar of the church in which it happens, although he or she will also need to keep a record of the marriage? These may not be the same people. A couple may want a particular priest from their childhood or even an ordained parent to take the wedding, who might live at the other end of the country, making it inconvenient to deliver a schedule or document to the local register office. Can the Minister clarify the penalty for not delivering it on time? The Explanatory Memorandum makes no mention of penalties but there is a reference deep in the regulations to a fine at level 3 on the standard scale, so I would be grateful for confirmation.

The training tells officiating clergy that it is their legal duty to get the document or schedule to the register office, but you may

"with the consent of the couple, ask someone else, such as a family member, to return it on your behalf."

Does this mean that the couple must give their consent for someone other than the priest to deliver the certificate? If someone else does it, is the officiant still liable if it goes astray? Can it be posted if they are not local? Who is liable if it then does not arrive?

These may seem small details, but couples plan their weddings a long way ahead and in meticulous detail. At wedding meetings, we go over every single minute of the ceremony. I am sure the Church was consulted and has been flagging up to local dioceses that these changes would happen at some point, but I am pretty sure that the urgency did not come from the Church. Therefore, can the Minister understand how unhelpful it is for this to happen with so little notice and for us to be six weeks from D-day and still with no detailed guidance available? Why were the regulations not brought forward six months ago? If that was impossible, why can their implementation not be delayed, allowing for more preparation? I hope that the Minister can answer all my questions today, but if she needs to write on anything, can she commit to doing so quickly, preferably within a week? After all, we have only six weeks until this becomes law.

3.45 pm

Lord Hussain (LD): My Lords, I draw the attention of your Lordships to the issue of marriage registration in some sections of the Muslim community in the United Kingdom.

As many of your Lordships are aware, the marriage ceremony in a Muslim wedding is known as the nikah. It can be performed by any Muslim. However, in the UK, an imam from a local mosque is usually asked to perform this duty, and normally he would issue a marriage certificate at the end of the ceremony, but these marriages are not officially recognised until they are registered with the local registrar.

Many families have two separate wedding ceremonies, one in a mosque, at a private residence or in a wedding hall, and a separate one at the registrar's office. In some places, the local mosques have arranged with the registrar to join them at a recognised wedding venue and register the marriage on the same day. There is no issue with either of those practices. The issue that I have come across is with those wedding ceremonies or nikahs held at a mosque, a wedding hall or at a private residence, where an imam would lead a ceremony and issue a certificate but the registrar is not aware of those weddings and they are not registered with them—hence, those weddings have no legal status.

Since there is no compulsion on registration of a marriage with an official registrar in the religion of Islam, many people do not bother with registration, and thousands of Muslim marriages in the UK are not registered. I am personally aware of many such marriages. Most of these couples are living a happily married life, but problems strike in cases of post-marriage disputes—over divorces, inheritance, pension rights and so forth. Usually, but not exclusively, it is the female left in a disadvantaged position in such cases. To protect the rights of those engaged in these unrecognised marriages, can the Minister tell the House what steps the Government are taking to work with Muslim faith leaders and local registrars to ensure that all marriages taking place in the UK are formally recognised?

3.47 pm

Baroness Hodgson of Abinger (Con) [V]: My Lords, I thank the Minister for introducing these regulations. This is indeed a historic event, the first changes to the

[Baroness Hodgson of Abinger]
content of a marriage register since 1837. It is a pleasure to be here today, having had the privilege of successfully taking the Civil Partnerships, Marriages and Deaths (Registration etc) Bill through this House in 2019. I give special credit to my honourable friend the Member for East Worthing and Shoreham, Tim Loughton, who so successfully secured and piloted the Bill through Parliament in the first instance and has worked so hard to champion these issues. True to form, he spoke passionately about these regulations and raised several probing questions in Committee in the other place earlier this month. While I do not want to repeat everything that was said, I hope that the Minister will use this debate to clarify and inform the House on some of the points that he raised.

I also take this opportunity to pay tribute to Linda Edwards and her team in the civil registration directorate at the General Register Office, who have worked so long and hard on this issue and been so enormously helpful. I also reiterate thanks to those on all sides of this House who took part in the Bill.

I understand that everything has been hugely impacted by the coronavirus pandemic but I still question that it has taken so long to bring forward these changes. The Bill became an Act in February 2019 with strong government support and became law after Royal Assent last May. I agree with views already expressed by others that the position should have changed soon after that, especially in light of the fact that the Act includes a sunset clause which provided that if the changes were not made in just over a year, the legislation would fall and we would have to start all over again. It is indeed disappointing that this has taken so long.

As noble Lords will know, there are four sections of the Civil Partnerships, Marriages and Deaths (Registration etc) Act 2019: marriage registration, extension of civil partnership, report on registration of pregnancy loss, and coroners' investigations into stillbirths. These regulations address only the first two issues, and while I emphasise that this is most welcome—indeed, as a mother, I still find it most extraordinary that it has taken so long for mothers legally to be allowed to sign the register—I would like to use this debate to seek clarity on progress on the other two issues.

Previously described as the Bill of hatches, matches and dispatches, this light-hearted reference, while apt, perhaps did not convey the emotional and personal impact wrapped up in the fourfold practical purpose of the Act. During the initial debates, one could not fail to be moved by the sensitive issues and some of the personal stories and speeches that were given, not least those relating to coronial investigation of stillbirths, an issue that has touched me personally. Can my noble friend the Minister therefore please update the House on what progress there has been on the consultation under the Act for coroners to be able to investigate babies who die at birth without independent life?

Similarly, what progress has there been on the consultation under the Act for registration of children who are stillborn before the arbitrary and artificial existing 24-week threshold? I had been given to understand that the Minister in the other place was going to write to Tim Loughton to explain progress on these two consultations, but I gather that no letter has yet been forthcoming. However, I expect that my noble friend the Minister will have anticipated my raising these questions in the light of the debate in the other place and my Written Questions tabled last week, so I very much hope that she is in a position to give the House a detailed update.

That aside, I give my wholehearted support to the regulations before us today. They are indeed a historic and much-needed step forward, better reflecting family circumstances in society today. I very much hope that colleagues in this House will give these regulations their support and consequential safe passage, as indeed they did with the Act.

3.52 pm

Lord Lucas (Con) [V]: My Lords, I too welcome these regulations and I hope that they indicate that the Government are in a mood to consider further changes to our arrangements for weddings in this country—as, it is clear, does the noble Lord, Lord Hussain, and the noble Baroness, Lady Hodgson of Abinger. My particular request to the Government is that they should look again at the restrictions on where a wedding can take place. We will be faced, I hope, with a considerable surplus of weddings once the restrictions are lifted but anyway, if we were allowed to hold weddings in the open air much more easily or in moving locations, that would provide creative venues and a much-needed increased capacity for ceremonies and would be a contribution to the recovery of places such as Sussex after the Covid epidemic as well as a great delight for those who were allowed to take advantage of them. If the Government are prepared to think of going in this direction, would they be prepared to hold an online meeting with me and officials from Sussex to discuss what might be possible?

3.54 pm

Baroness Uddin (Non-Afl) [V]: My Lords, I welcome many aspects of the Registration of Marriages Regulations and look forward to the guidance, eloquently detailed by my noble friend Lady Sherlock—I commend her expertise to the House—and the forthcoming Law Commission report due to be published in August, particularly with reference to weddings and their registration.

I am pleased to be speaking in this debate and my primary focus is to draw the House's attention, as I have done previously, to the hundreds of thousands of unregistered marriages and the detrimental effect of such decisions, which have left countless women in particular and their families, when separated or divorced, facing destitution and without fundamental legal protection and rights. I agree with the sentiments and questions of my noble friend Lord Hussain. This is a grave matter of ensuring equality and opportunity to safeguard hundreds of thousands of British-born women, and a smaller group of men, for whom there are no legal remedies or entitlement when marriages break down.

I am therefore pleased that the Law Commission in its consultations throughout the country cited the work of the Register Our Marriage—ROM—campaign, which, alongside many leading organisations, is supportive of the Law Commission's proposal to modernise the marriage laws. It is asking the Government to amend and modernise the Marriage Act 1949 and require all

persons, regardless of their faith, to register their marriage according to the law of the land. This would send a powerful message and clarity to all parties who enter marriage. It would also remove significant imbalances of power between couples and prevent pain and suffering, as well as enabling legal support. In that context, I thank Aina Khan OBE once again for her relentless efforts and for her comprehensive briefing which underpins this contribution.

I welcome much of the regulations. An important aspect worth noting is that for the first time, as the noble Baroness, Lady Hodgson, stated, mothers' names will be recorded by acknowledging both parents. This has been an outrageous anomaly to be remedied given that it is the mothers who gave birth to both partners. I very much welcome those amendments and proposals. I also note that no other institutions will be able hold blank copies of marriage certificates, which it is proposed will be centrally held and registered, and details of marriages will be held centrally on a marriage register. That is indeed welcome news.

Finally, I have a request and a question to the Government and the Minister. In the light of the expertise our Government have developed in the past year in reaching out to communities with public health information, will the Minister assure me and this House that public education and materials on the proposed changes will be made available to all senior schools, colleges and universities, which may empower many women in particular to make informed choices and decisions, and protect and uphold their human rights?

3.58 pm

Lord Paddick (LD) [V]: My Lords, I thank the Minister for introducing these regulations. They are very welcome in that they allow both parents' details to appear on a marriage certificate rather than just those of the father, as has been the case in the past. This promise was made by the then Prime Minister David Cameron in 2014. Can the Minister explain why it has taken seven years to bring about this change, as the noble Baroness, Lady Hodgson of Abinger, also asked? The change from a hard-copy marriage register to an electronic system of registering marriages, with its added flexibility and cost savings, is also welcome.

Can the Minister explain why the Government did not take the opportunity to introduce a uniform system across all marriages, whereby the superintendent registrar in the district where the marriage is to be solemnised issues a marriage schedule for a couple and their witnesses to sign at the marriage ceremony, which is then returned for the information to be entered into the electronic marriage register, and a marriage certificate is then issued? Why is an exemption being made for the Church of England and the Church in Wales, whereby a member of the clergy will issue a marriage document instead of the marriage schedule issued by the superintendent registrar? Marriage certificates will now be issued only by register offices, so why not marriage documents? The noble Baroness, Lady Sherlock, has outlined how confusing this dual system is going to be.

The Explanatory Memorandum states, as the Minister has said, that the Marriage of British Subjects (Facilities) Acts 1915 and 1916 are seldom used and that their removal will enable a smooth transition to the new registration system. However, I cannot see immediately how these Acts would hinder the introduction of the new system. Can the Minister help on this point? How often are they used and what will be the impact on those who might have used the Acts?

The change to Section 28B of the Marriage Act 1949 that requires evidence of nationality to also include evidence of status or pending application for status under the EU settlement scheme is understandable. However, can the Minister remind the House what conditions other than marriage to a UK citizen have to be fulfilled before a foreign national spouse can remain in the United Kingdom? Why are the protections against sham marriage not sufficient? I look forward to the Minister's reply.

4.01 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I am delighted to support the regulations before the House. I welcome the modernisation of the system, which allows the details of a mother and father to be documented together and provides flexibility for necessary future changes. This is a modernising measure from the technological perspective and the values perspective; I am pleased to see both. It is also interesting to note from the Minister's speech that it has taken only 166 years to follow the lead of Scotland in this regard; I am pleased to see that we have finally got there.

My noble friend Lady Sherlock referred to the speed of these changes—that we have waited so long—and their going on to the statute book two years ago. That could cause some problems for couples and celebrants: the priests, vicars and registrars who marry people. It would be good if the Minister explained why there is this haste at the last minute, having taken so long in the first place. This is important. I have been married only once—I have no intention of getting married again, having been happily married for the past 17 years—and unless you are actually involved in marrying people, you do not know about these changes. It is important to understand why we are moving so quickly at the last minute.

The delegated legislation we are dealing with may well, in years to come, be of interest to historians and genealogists because we will be able to see what the mother's occupation was. When people look back in 100 years' time, there will be some valuable information about what was going on in Britain at this point and in the years going forward.

The noble Lord, Lord Hussain, raised the important issue of post-marriage disputes in the Muslim community where the marriage has not been registered. That is a fair point, which I hope the Minister can help with. We want to avoid people who become destitute having further problems. Also, the noble Baroness, Lady Hodgson of Abinger, asked important questions about stillborn children; I hope that the Minister can respond. Having said that, I am delighted to support the changes before the House today.

4.04 pm

Baroness Williams of Trafford (Con) [V]: My Lords, I thank all noble Lords who have spoken in this debate. One of the most common questions, put by

the noble Baronesses, Lady Sherlock and Lady Kennedy, and the noble Lord, Lord Paddick, is why it has taken so long to see any action on this point. The Home Office has been considering options for updating the marriage entry to include the mother's name, but it has not been straightforward. Any changes obviously require funding, system changes and legislation, all of which must be considered before bringing forward any proposals. Of course, we have had the huge matters of Brexit and the pandemic to contend with. The noble Baroness, Lady Sherlock, asked about the date of implementation. That was announced when the regulations were laid, on 22 February. That was seen as a good time, before we move into peak wedding season, to bring forward these changes. I suspect that a backlog of marriages is about to come forward.

The noble Baroness also asked about the Church. I take the opportunity to thank the Church of England, in particular the right reverend Prelate the Bishop of St Albans; I know that officials from the Church of England and the Church in Wales have been working closely with us throughout the policy development. They are very much in favour of these reforms because they will bring a number of efficiencies to the existing registration process. They have been very positive indeed. I can also tell the noble Baroness that the guidance for clergy will go out as soon as possible. The term "clergy" is a long-standing one and we have left as it stands. However, I understand the point she made.

The noble Baroness also asked about the various "what ifs" in terms of the timeline. If the schedule or the document is not returned to the register office within the specific timescale, the superintendent registrar will contact the relevant person to advise that the marriage must be registered and to make arrangements for that to happen. It will be an offence not to return the signed schedule or document to the register office. Regarding what would happen if it gets lost or damaged in the post, if the document is damaged before it has been registered by the registrar general, if they are satisfied that the marriage has been solemnised, they will authorise the schedule document to be reproduced and arrangements will be made with the couple, their witnesses and the person or persons who officiated at the marriage to sign another schedule or document, so that the marriage can be registered and the marriage certificate issued.

The noble Lord, Lord Hussain, and the noble Baroness, Lady Uddin, made very good points about the legality of marriages in the Muslim community. We heard a lot about this issue when considering the Domestic Abuse Bill—people with a niqab not having their marriage legalised, and the problems that that can cause. I recognise the point that was made. Of course, these regulations are only about marriage registration and not wider marriage law. I will write to the noble Baroness regarding the progress of coronial inquests into stillbirth because I do not have the up-to-date position on the timelines.

My noble friend Lord Lucas asked about where weddings can take place. As far as I know, weddings can be held in an awful lot of places; we are spoilt for choice. However, I will write to him if I have any further updates. I can also say to the noble Baroness, Lady Uddin, that question and answer sessions will be taking place in April on this issue.

The noble Lord, Lord Paddick, was asking about the difference in systems. As a Catholic, I know that there has always been a difference in systems. The C of E is, obviously, the established Church. We have not removed the ecclesiastical preliminaries for the Church. The marriage document will contain the same information as the marriage schedule, and we are not introducing universal civil preliminaries; we are just keeping in place what is already in place for the Church of England. He also asked me—this is not part of the regulations, I think—about the other obligations on a prospective spouse. Clearly, there are rules on salary specifically for residency.

I think that covers about everything, but if I have not covered anything I shall write to noble Lords. I finish by thanking my noble friend Lady Hodgson for the work she has done on this. I also particularly thank the right reverend Prelate the Bishop of St Albans, the Church of England and the indomitable Linda Edwards, who has aided so efficiently the passage of what is, as the noble Lord, Lord Kennedy, said, a welcome statutory instrument.

Motion agreed.

The Deputy Speaker (Lord Duncan of Springbank) (Con): Before we move on to the next business, we will have a small breather to allow people to escape the Chamber.

Extradition Act 2003 (Codes of Practice and Transit Code of Practice) Order 2021

Motion to Approve

4.11 pm

Moved by ***Baroness Williams of Trafford***

That the draft Order laid before the House on 22 February be approved.

Relevant document: 48th Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Home Office (Baroness Williams of Trafford) (Con) [V]: My Lords, the order will update our existing codes of practice for police powers under the Extradition Act 2003 and introduce a new code of practice for non-UK extradition transit. First, I will deal with the codes covering police powers. These revised codes of practice govern the way in which the police use their powers under Part 4 of the Extradition Act. They relate to search and seizure, applications for warrants and production orders, entry to premises and the treatment of detained persons after arrest in extradition cases.

The updated codes take account of changes which have been made to the relevant Police and Criminal Evidence Act 1984 codes of practice, commonly known as PACE codes, on which the extradition codes of practice are based. They also incorporate necessary changes brought about by the new power of arrest granted in the Extradition (Provisional Arrest) Act 2020. The codes of practice currently in use were published in September 2011. These changes therefore

bring the codes fully up to date, providing operational clarity for policing. Amendments have also been made to set out more clearly the procedural rights for individuals on arrest and throughout the subsequent extradition proceedings.

The code of practice for non-UK extradition transit will provide the basis for transit through the UK in extradition cases. This will enable the UK to fulfil certain treaty obligations, including those established as part of the new surrender arrangements with the European Union. Extradition transit occurs when a country allows an individual who is being extradited to pass through its territory, while remaining in police custody, where a direct route between the countries concerned with the extradition request is not possible.

As the House will know, the Anti-social Behaviour, Crime and Policing Act 2014 made amendments to the Extradition Act 2003, setting out the legal basis to enable people being extradited from one third country to another to transit through the United Kingdom. Those provisions cannot be commenced without this code of practice coming into operation to underpin them. The code therefore sets out the appropriate powers and guidance for UK police to facilitate this operational activity as necessary.

Commencing these transit provisions is important for the UK so that we can comply with our treaty obligations, as I have outlined, and to assist our international extradition partners in bringing fugitives to justice. They are particularly important at this time, when travel and modes of transport are disrupted and restricted by the current pandemic.

The House will want to know that any decision to grant a request for transit is discretionary. It would be considered only if the requesting country and destination country were ones that we would regularly extradite to and where we have international obligations that require us to do so. A risk assessment in consultation with law enforcement partners and Border Force is also required before any request can be granted.

Both codes being presented today have been the subject of public consultation, as well as detailed consultation with operational partners, including law enforcement, Border Force and the devolved Administrations, and have been updated to take consultation responses into account. The codes will provide a comprehensive and accessible resource for operational partners. For individuals subject to extradition, they will act as a reference to their rights. The legislation will further ensure that there is no disparity between our international obligations and domestic law.

If this statutory instrument is approved by Parliament, these codes will be brought into operation on 1 May 2021. I commend the order to the House.

4.16 pm

Lord Naseby (Con) [V]: My Lords, I am conscious that this is a complicated issue and that we in Parliament have to debate under the draft affirmative procedure and give our consent. I am not experienced in this area, but I looked closely at the Extradition Act 2003 code of practice. I studied some of the 63 pages. The code of practice is in principle 18 years old, so it is not surprising that some changes are being made. I have a few questions that arose from some of the reading I have done, first on search warrants, where an entry is made into a property or premises without a warrant for the purpose of arrest or a search of the premises. Has there been any change in the procedure over this period of 18 years? What happens when things go wrong, or perhaps not to plan? Does the aggrieved party have a right to an appeal or is there a review mechanism?

I notice that paragraph 5 of the Explanatory Memorandum, entitled "European Convention on Human Rights", states that, in the view of the Commons Minister, the provisions

"are compatible with the Convention rights."

I just wondered whether anybody has ever challenged that.

I note that paragraph 7.2 talks about

"PACE Codes and how arrests are to be carried out in relation to these new arrest powers. These codes do not apply to Scotland."

Has that changed? I presume that originally they applied to Scotland; perhaps I am wrong. If they applied but do not now, is that because of something that was done at the time of devolution, or was there some other change in relation to Scotland?

In paragraph 7.4, towards the end, there is a sentence starting:

"Some modifications were made following consultation and further modifications were recently made via direct consultation with operational partners".

It would be helpful to know in what area those modifications were and whether they were substantial or what I might call of minor interest.

I am not clear about paragraph 8.1 on the European arrest warrant. I am not quite sure what has happened to that.

Finally, under paragraph 12, "Impact", how often do we have transit requests and are operations undertaken? Is this something that happens a few times a year, or are we regularly called on to help with transit arrangements?

I should be most grateful to the Minister if she can give some response to those questions either now or later in writing.

4.19 pm

Baroness Wheatcroft (CB) [V]: My Lords, these are straightforward regulations and on that level I support them. It is clearly important that our police should have clarity on these issues and that the code provides a necessary update. When people are being extradited, it is clearly essential that they can access legal support and the code enables that, among other things.

However, there are broader issues with extradition. I fear that our police are caught in a situation that is still deeply unfair for British citizens. I refer, of course, to the imbalance between the UK and the US, in the 2003 extradition treaty. On 12 February last year, our Prime Minister said:

"I do think that elements of that relationships are unbalanced, and it is certainly worth looking at".—[*Official Report*, Commons, 12/2/20; col. 846.]

But, more than a year later, it has not been looked at. Our police are being asked to help in a process that can see UK citizens extradited to the US for crimes committed entirely in the UK and involving UK citizens and businesses.

[Baroness Wheatcroft]

When the 2003 Act was first brought in, it was envisaged that it would deal with paedophiles, terrorists and murderers. In fact, the subject of extradition to the US has been almost entirely white-collar crime. It appears that the US has the ability to reach out around the world on commercial crime, so our police will necessarily be involved in dealing with people not only from the UK who are subject to extradition, but in transit from other countries to the US, where they, like our citizens, will face a legal process that is weighted against them. The US legal system is very different from ours and, although it is clear from these documents that we will not extradite or aid the extradition of those who could be subject to the death penalty, we will be involved in extraditing those who could be subject to extraordinarily long prison sentences in conditions which, many would argue, are not conducive to complying with human rights legislation.

The plea bargaining system is essentially unfair. Why American citizens accept it I do not know, but surely the UK should stand up against such an unfair system of justice and safeguard our citizens, and potentially those of other countries, who are subject to the unfairly long reach of the US judicial arm.

4.23 pm

Baroness Jones of Moulsecoomb (GP): My Lords, I agree very strongly with the noble Baroness, Lady Wheatcroft, because there is a huge imbalance between us and the US, and it is time to do something about it. The Prime Minister said he would, but he says a lot of things and you cannot rely on any of them.

In looking through this code of practice, it is worrying that the police not only have been dragged into immigration enforcement in this country but are now being used to ferry extradited prisoners in transit between two other countries. I would very much like to know, if the Minister can answer me, how the police were consulted, when and in what form. This is important, because the police have been dragged into this very sensitive area.

One other specific area that is woefully neglected in this code of practice is the guidance for refugees and people claiming asylum. The issue gets one paragraph of guidance at paragraph 1.10 and a requirement to keep records at paragraph 4.20. It says:

> "If the person in transit claims that they are a refugee or have applied or intend to apply for asylum, a constable or custody officer must ensure that the relevant immigration authorities are informed, as soon as practicable, of the claim. The immigration authority may then inform the constable or custody officer of any action that he or she may take."

This is worrying for many reasons, not least because the immigration authorities are constantly making wrong and unlawful decisions about refugees and people seeking asylum. There is no provision here for these people to seek independent legal advice and to be supported to exercise their important rights.

Paragraph 4.19 allows legal advice to be arranged via the citizen's embassy, but that may be of little use or actively harmful if the person is seeking asylum against that very country.

Paragraph 4.20 requires record keeping of communications with the immigration authorities regarding claims for asylum or refugee status, but those records are of no use if the person is quickly shipped off to their destination country, with no recourse to the UK courts.

Worse still, the guidance at paragraph 1.10 requires the immigration authorities to be informed "as soon as practicable" of an asylum or refugee claim. It is easy to foresee circumstances where the police would say that it was not practicable to inform the immigration authorities before the person was shipped off to their destination country—for example, if the police were simply escorting a prisoner between two connecting flights.

It seems that this code of practice is completely unfit for purpose when it comes to the rights of refugees and people claiming asylum. Lives will be ruined and huge injustices caused as a result of police following this guidance. The police will therefore bear the brunt of this and not the Government. Can the Minister therefore please undertake to go back to the department and revise this code to protect refugees and people claiming asylum properly?

4.27 pm

Lord Paddick (LD) [V]: My Lords, I thank the Minister for introducing this order. From what I understand, an extradition case in 2002 called into question whether the Police and Criminal Evidence Act 1984, which usually covers the matters referred to in Part 4 of the Extradition Act 2003, applies to cases where the alleged offence was committed abroad. The 2003 Act sets down police powers on extradition cases but, where the A are silent on any matter, police officers need to refer to the PACE codes of practice.

As the Minister said, Part 4 of the 2003 Act deals with police powers, including search and seizur warrants, production orders, entry and search in order to arrest and after arrest, search of the person arrested including intimate searches, the taking of fingerprints and DNA samples, and photographing of the person and of any identifying marks or scars in order to establish the person's identity—in other words, the powers contained in PACE. The Secretary of State must issue codes of practice in connection with the exercise of those powers.

The instrument brings into operation updated codes of practice in England, Wales and Northern Ireland under the 2003 Act and a new code of practice for non-UK extradition transit throughout the UK, where the person being extradited is transiting through the UK but is not being extradited to or from the UK. The latter was added to the 2003 Act by Section 168 of the Anti-Social Behaviour, Crime and Policing Act 2014.

The existing codes of practice under the 2003 Act date from 2011 and, as the Minister explained, there have been changes to PACE and a new power of arrest brought in by the Extradition (Provisional Arrest) Act 2020, since 2011. The changes to both codes of practice have been consulted on, but further changes have been made, including amendments relating to the new power of provisional arrest introduced by the 2020 Act.

The Explanatory Memorandum states that the instrument does not relate to withdrawal from the European Union. This takes us back to when we debated the Extradition (Provisional Arrest) Act 2020, when the House noted that the legislation had been

brought forward just as the UK was losing access to the European arrest warrant. Despite the Government's denials that the two were linked, they then added all EU member states to the list of category 2 territories.

But I digress. I have two questions for the Minister. On examination of the updated Extradition Act 2003 codes of practice, it is unclear to me how they differ from the PACE codes of practice. Can the Minister explain what the main differences are, if any?

Upon examination of the *Code of Practice for Non-UK Extradition Transit*, it was unclear to me the differences between when a person is in transit and the relevant UK authority has issued a transit certificate under Section 189A of the 2003 Act, and when a person makes an unscheduled arrival in the UK and a transit certificate will not have been issued. Can the Minster please explain what those differences are? Otherwise, we support the order and I look forward to the Minister's response.

4.30 pm

Lord Rosser (Lab) [V]: The Government are required to issue codes of practice in respect of the use of police powers in extradition cases under the Extradition Act 2003. These codes of practice update existing police powers codes published in 2011. The update is needed to reflect the use of police powers in relation to updated Police and Criminal Evidence Act codes and the new power of arrest under the Extradition (Provisional Arrest) Act 2020. The police powers codes do not apply to Scotland.

The transit code of practice, which applies across the United Kingdom, sets out the powers for police during non-UK extradition transit under the 2003 Act: that is, allowing a person who is being extradited between two countries—neither of which are the UK—for the purpose of standing trial or serving a sentence to pass through our territory in custody. A constable can be authorised to escort the person from one form of transportation to another, take the person into custody to facilitate the transit, and to search for any item which the person might use to cause physical injury.

The Explanatory Memorandum says that

"Revised 2003 Act Police Powers Codes were consulted on in 2015",

and again last year, and that

"The draft Transit Code of Practice was published for consultation in 2015. Some modifications were made following consultation and further modifications were recently made".

Is the draft transit code of practice just being brought into operation, or has it been in operation since the consultation in 2015? If it is not already in operation, which appears the case despite consultation in 2015, why the delay since 2015?

On the Extradition Act 2003 codes of practice, the letter from the Minister of 22 February 2021 states that, in 2015, draft changes in respect of PACE codes were consulted on and agreed. However, revised codes were not subsequently laid. Why was that?

The Explanatory Memorandum states:

"The approach to monitoring of this legislation is for the Home Office to closely monitor the impact of this Order."

Could the Government explain exactly what that means in practice in relation to both the Extradition Act 2003 codes of practice and the *Code of Practice for Non-UK Extradition Transit*?

On the *Code of Practice for Non-UK Extradition Transit*, who has the power to give authority to a constable to take the person into custody to facilitate the transit, and how is the use of that authority under the transit code of practice monitored, and by whom? The letter of 22 February states:

"A decision to grant any request for transit will be discretionary. We would only expect to grant a request if the requesting country and the destination country are ones we would regularly extradite to and where we have international obligations that require us to do so".

When the order was debated in the Commons, the Minister said:

"we would not allow transit if … the death penalty may be an issue",

and that

"we do not agree extradition to all countries in the world, given our concerns about human rights."—[*Official Report*, Commons, Third Delegated Legislation Committee, 17/3/21; col. 6.]

Assuming that also applies to the code on extradition transit, could the Government say how many countries in the world we do not agree extradition to, given our concerns about human rights?

In the light of the Government's statements to which I just referred, how often is it anticipated that the powers under the transit code of practice will be exercised this year and next year? How many countries are there that we regularly extradite to and where we also have international obligations that require us to do so, as referred to in the letter of 22 February?

On both codes of practice, is the monitoring on a continuous basis or at set intervals? Does the Home Office or any other body produce a written report available to Parliament on the findings of its close monitoring of the order and how the powers are being exercised?

When the order was debated in the Commons, my colleague the shadow Minister referred to the formal response paper to the consultation that has been published by the Home Office. That paper indicated that suggestions had been put forward on the issue of search and seizure provisions and on legal professional privilege material, but then said that these concerns were already adequately reflected in the codes. The shadow Minister asked for some additional assurances, including what the original concerns were and why they would be raised if they had already been addressed. The government Minister said that he would

"provide slightly more detail in writing."—[*Official Report*, Commons, Third Delegated Legislation Committee, 17/3/21; col. 6.]

I am not sure whether that has been done yet, but could I also have a copy of that response, since I assume that the Government will not be able to take this issue any further forward in their response today?

The shadow Minister also referred to concerns raised about the then unknown future provisions for extradition proceedings with EU member states post Brexit, and asked about the implementation of the new arrangements and their operational efficacy. In short, he asked:

"is extradition now working as frictionlessly as under the previous regime?"—[*Official Report*, Commons, Third Delegated Legislation Committee, 17/3/21; col. 4.]

[Lord Rosser]
Since some EU states have a bar on the extradition of their own nationals beyond the European Union and we are now no longer a member of the EU, does that mean that some criminals who would have been extradited under the previous regime can no longer be extradited?

The Minister in the Commons said of the new arrangements:

"On the operational positions with the European Union, our initial feedback is that they appear to be working fairly well."—[*Official Report*, Commons, Third Delegated Legislation Committee, 17/3/21; col. 5.]

That suggests that extradition is not now working as frictionlessly as under the previous regime. Could the Government, in their response in this House, spell out in rather more detail exactly what the Minister in the Commons meant when he said that the new arrangements were working "fairly well"? What precisely does that mean in practical terms?

We are not opposed to these codes, which are intended to enhance national security and protect our communities—a top priority issue that can be delivered while also protecting our rights and freedoms. However, I hope that the Government will be able to respond, now or subsequently, to the points and questions that I and other noble Lords who have spoken in the debate have raised and asked.

4.39 pm

Baroness Williams of Trafford (Con) [V]: My Lords, I thank everyone who has spoken in this debate. I apologise to the noble Lord, Lord Naseby, because I did not hear part of his speech. However, he asked about changes in extradition practices. The principles of extradition remain the same, although clearly there are countries that we may add or subtract.

The noble Lord, Lord Rosser, asked how many countries we extradite to. I do not have the total in my head, but he can see that in the list of Part 1 and Part 2 countries. My noble friend also asked whether our practices were compatible with human rights. Yes, that is a clear principle of our extradition approach.

My noble friend Lady Wheatcroft asked about extradition to the US. The US-UK treaty is out of the scope of this debate, but clearly we would, if appropriate, seek death penalty assurances from the US. It would not depend on the issue; we would seek those assurances. In terms of transit, we will not transfer either to or from a country with human rights abuses.

The noble Baroness, Lady Jones of Moulsecoomb, asked about the police. We have extensively consulted them and they are content. As the noble Lord, Lord Paddick, said, silence on any matter means that they refer to the PACE codes. The noble Baroness also asked about asylum seekers. This extradition process is a very clear court process by which we would return or receive someone to face sentence either here or in another country. Anyone who wishes to seek asylum obviously can do so when they arrive in this country. However, this order is not predominantly about asylum seekers but about a court process.

The noble Lord, Lord Paddick, asked about various processes. There are two main changes. The updated extradition codes of practice take account of changes made to the relevant PACE codes on which the extradition codes of practice are based. While police practice is always to refer to them as recent PACE codes, as the noble Lord pointed out, the draft codes of practice have been updated to reflect the most recent amendments to the PACE codes. As he said, most amendments are in respect of PACE code C, which deals with arrest, detention and treatment of persons detained under the 2003 Act. There are also some amendments in respect of PACE code D, which applies to the identification of persons detained under the 2003 Act.

The second change, the new power of arrest brought about by the Extradition (Provisional Arrest) Act 2020, applies only to Part 2 of the 2003 Act. The provision applies only in principle to a specific and limited number of Part 2 countries—the Five Eyes countries, Switzerland and Liechtenstein—meaning that the number of arrests that would rely on it would be relatively low. However, it is essential that the revision to police powers in the 2003 Act is appropriately reflected in updated codes of practice at the earliest opportunity.

In terms of transit arrangements, a request for extradition transit from any country is subject to approval. The usual safeguards concerning human rights compatibility continue to apply in all extradition cases. Requests for transit that concern countries outside the European Union will be considered by the Secretary of State for the Home Department and the policy set out in the overseas security and justice assistance—OSJA—guidance must be applied where necessary. We would expect to proceed only if the requesting country and destination countries are ones that we would regularly extradite to and where we have international obligations that require us to do so: that is, the provision will be used only for extraditions taking place according to a treaty or on a similar international legal basis.

Transit would also be refused if the person has already been convicted for the same offence in the UK or another country on the grounds of double jeopardy or if a person has been, or could be, sentenced to death. Additionally, when considering any request, key risks or concerns will be considered before a decision is made. These include risks to the person in transit or to others. This would be assessed from information concerning the relevant offence, any history of violent behaviour and any significant health issues that it is mandatory for the requesting country to provide.

I turn to other questions. The noble Lord, Lord Rosser, asked about the Minister in the Commons who said that the new arrangements were working fairly well. I cannot comment on what was in his mind, but I shall study the relevant *Hansard* and return to the noble Lord in writing. He asked whether the arrangements were already in operation or had just been brought in. These codes will be brought in on the passage of this statutory instrument. The noble Lord also asked for a letter from the Commons Minister when it is ready. Yes, definitely. He mentioned some countries that would not allow extradition. There are a few countries that will not allow the extradition of their own nationals. In those situations, the individuals are tried in their own country and remedies sought thereafter.

The last question was why this legislation had taken so long to come into force. Legislation passed in 2014 made amendments to the Extradition Act 2003. Provisions were not commenced earlier, partly due to the competing policy and parliamentary priorities that I mentioned in the debate on the previous statutory instrument, and also due to complexities in determining how transit should best operate in practice. I am pleased to say that those issues are now resolved.

If I have not addressed any questions, I will do so in writing.

Motion agreed.

Renewables Obligation (Amendment) Order 2021

Motion to Approve

4.48 pm

Moved by ***Lord Callanan***

That the draft Order laid before the House on 3 February be approved.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, this draft instrument relates to the renewables obligation renewable electricity support scheme. The renewables obligation was introduced in 2002 to provide a subsidy for electricity generation from renewable sources. It covers onshore and offshore wind, solar, hydro, biomass et cetera. The scheme is now closed to new applications, although support for existing stations continues. The scheme closes finally in 2037.

The scheme was part of a programme of measures aimed at stimulating the renewables industry to enable ambitious climate change targets to be met. Without subsidy, the nascent renewables sector would have struggled to make headway in a market dominated by the established heavyweights of coal, gas and nuclear. The renewables obligation had an initial target of 10% renewable electricity by 2010, but today around 30% of the electricity supplied in the UK is supported under the scheme.

Of course, the scheme needs to be paid for, and this falls upon electricity suppliers. They currently provide almost £6.5 billion of subsidy per year to renewable generators. These costs are then passed on to their customers via their bills, adding about £70 per year to the average domestic electricity bill. Costs will fall from 2027 as generators start reaching the end of their period of support and then exit the scheme.

The draft SI deals with a technical matter, which relates to supplier payment default. More specifically, it aims to prevent electricity suppliers being unduly exposed to the unpaid bills of competitors who fail to meet their obligations. The renewables obligation actually comprises three separate but interlinked schemes: the renewables obligation covering England and Wales, the renewables obligation Scotland, and the Northern Ireland renewables obligation. The Scottish and Northern Irish Governments are responsible for their own schemes. The UK Government cover the England and Wales scheme; the matter under debate today therefore applies only to England and Wales.

The renewables obligation is a traded scheme. It places an obligation on electricity suppliers to obtain a certain number of green renewables obligation certificates in proportion to the amount of electricity they supply to their customers. Certificates are issued to renewable generators, for free, by Ofgem in relation to the amount of renewable electricity they generate. Suppliers typically buy these certificates, providing generators with an income stream over and above electricity sales revenues. Certificates are usually in short supply, so suppliers may make a cash payment, called a "buy-out" payment, in lieu of each certificate. The buy-out price is about £50 per certificate for the current renewables obligation year, and about 10% of the scheme is met this way. At the end of the scheme year, the cash fund is recycled back to those suppliers who met their obligation with certificates. This gives certificates additional value over and above the original buy-out price.

In recent years, an increasing number of suppliers have defaulted on their obligations under the scheme. Payment default leaves a shortfall in the cash fund, meaning that recycle payments are lower than they would otherwise have been. This lowers the value of certificates, which ultimately impacts generators' returns. The scheme therefore features a "mutualisation" mechanism, which offers protection against payment default. Under the mechanism, shortfalls in the cash fund are recovered from all other suppliers and recycled back to those suppliers who met their obligation with certificates. However, the mechanism is triggered only when the shortfall exceeds a £15.4 million threshold. Mutualisation has been triggered in each of the past three years. In total, £173 million has been mutualised across suppliers in England and Wales. Electricity suppliers and their customers are therefore unhappy about the situation.

In December 2020, the Government consulted on a proposal to amend the mutualisation threshold so that mutualisation would be less easily triggered. It was proposed that the £15.4 million threshold should be replaced with a new threshold, calculated annually as 1% of the cost of the scheme. This 1% is broadly equivalent to the arrangements that were in place when mutualisation was first introduced into the scheme in 2005. Since then, the threshold has been gradually eroded in relative terms; it is now equivalent to just 0.25% of the scheme costs. This means that mutualisation can now be more easily triggered. In other words, the risk associated with supplier payment default has become increasingly tilted away from generators and towards other suppliers.

Our proposal and draft SI seek to redress the balance of risk. In the first year, the threshold will rise to about £62 million. This will ensure that suppliers and their customers are not unduly exposed to the unmet renewables obligation bills of other suppliers. Generators will face an increased risk that unmet obligations will remain unrecovered. This will have a small impact on the value of certificates. However, the new level of risk is broadly equivalent to where it was originally in 2005. In this respect, the SI can be considered restorative.

This draft instrument makes minor technical changes to the Renewables Obligation Order 2015 so that a fixed £15.4 million threshold is replaced with a threshold

[Lord Callanan]
calculated on an annual basis. As I said earlier, the new threshold is determined as 1% of the forecast scheme cost for the year ahead. It also places a new requirement on the scheme's administrator—in this case, Ofgem—to calculate and publish the threshold ahead of each obligation year.

In conclusion, the emergence of payment default and cost mutualisation under the renewables obligation is of increasing concern to electricity suppliers. Through no fault of their own, electricity suppliers have become increasingly exposed to the unmet obligations of their competitors, whereas renewables generators have seen their returns increasingly protected. The draft instrument will restore the original balance of risk between generators and suppliers. It will make it harder for mutualisation to be triggered, so suppliers will be less likely to be exposed to the unmet obligations of other suppliers. This is, of course, good news for consumers; they should benefit because the likelihood of mutualisation costs being passed on to them will be lower.

These legislative changes need to be effective on 1 April to enable them to take effect in respect of the next renewables obligation year, which runs from April 2021 to March 2022. Consequently, and subject to the will of Parliament, this draft instrument will enter into force on 31 March 2021. With that, I commend this order to the House.

4.58 pm

Lord Moynihan (Con): My Lords, I warmly welcome my noble friend Lord Kamall to his place on the occasion of his maiden speech. I look forward with interest to his contributions, not only to the proceedings today but in future. He has chosen a good subject because this order is welcome. As Minister for Energy when the Government introduced the first non-fossil fuel obligation, almost—I dare to say—30 years ago, it set the framework for welcome successor initiatives, one of which we are debating this afternoon. Today, the renewables obligation scheme is considerably, and understandably, more complex but nevertheless welcome. It comprises three elements, including the scheme under consideration this afternoon, namely that covering England and Wales.

I will concentrate my few remarks on the representations made by Citizens Advice in its response to the Government regarding proposed changes to the utilisation arrangements under the renewables obligation scheme. I agree with the proposals put forward in the Government's consultation and call for evidence regarding the proposed changes to mutualisation arrangements under the scheme. However, I would appreciate the opportunity to hear from the Minister more about the thinking behind the Government's response to the request to require more frequent renewables obligation payments by suppliers. This request was made to offer more protection to consumers and generators and to constrain bad debts from escalating more quickly.

We have all seen that the financial strain on suppliers has led to energy supply company failures, affecting over a million energy customers. Such failures result in financial detriment as well as stress for consumers whose energy supply company fails, and higher costs mutualised among all consumers. The largest unexpected costs come from renewable obligation mutualisation, placing additional financial strain on energy suppliers, and resulting in higher costs for consumers.

Does my noble friend the Minister take the view that his order restores the balance of risks between suppliers who set aside money to pay their renewables obligation and suppliers who do not? It is my view that a more regular supplier payments schedule, as is the case in other schemes, would be a constructive way of reducing overall risk rather than shifting risk from suppliers to generators. Requiring more frequent payments, in addition to Ofgem's principles-based rules around financial responsibility and the Government's proposed changes to the RO mutualisation threshold, remain approaches worthy of further review. So, in the interest of clarity, can my noble friend the Minister provide the House with further insight as to what happens if there is a shortfall in the buy-out fund and suppliers do not meet their obligation?

Finally, will the Minister take this opportunity to clarify the Government's thinking as to how they balanced the responses to the consultation exercise, where there was clearly a significant discrepancy between views? Those in favour of the proposal to link the mutualisation threshold to the annual cost of the scheme were in stark contrast to the majority of respondents with an interest in electricity generation, who disagreed with the proposal, believing it would lower the value of ROCs, since lowering the value of ROCs by raising the threshold would make it harder to recoup the costs from suppliers when there was a shortfall in the fund.

4.59 pm

Lord Kamall (Con) (Maiden Speech): My Lords, thank you for the opportunity to give my maiden speech in this debate today. I start by thanking noble Lords on all sides of the House, as well as Black Rod and her staff, doorkeepers, police officers, advisers and all the other wonderful staff for their warm welcome and guidance, especially during these tough and challenging times. I am also grateful to my noble friends Lord Flight and Lord Callanan for introducing me to the House last month. Both have offered me friendship and advice over the years; I will not say it has always been good advice.

When my appointment to this House was announced, a friend said to me, "It's an awful long way from Lower Edmonton to the upper House for the son of an immigrant bus driver." I am sure some of you may be thinking, "Oh no, not another one"; after Sajid Javid and Sadiq Khan, in British politics it seems you wait ages for the son of an immigrant bus driver and then three come along at once.

My father, who sadly passed away a few months ago, would often tell us that there is no limit to what you can achieve if you believe in yourself, believe in God, and work hard. But he would also remind us that not everyone can be as fortunate, that we should not forget those who are left behind, and we should look for ways to help them. During my time as an MEP for London, I worked to highlight the work of local community non-state projects that were tackling poverty and social exclusion, and I hope to continue to do so

in the future. I also hope that I can honour my father's memory by making a difference and inspiring others to make a difference too.

If my father was the talker, my mother—like in many marriages, I suspect—was the doer. When I did not get into the local grammar school, despite getting good grades, my mother marched me down to the office of the local Member of Parliament, Ted Graham, later Lord Graham of Edmonton. His first question to me was, "Young man, what do you want to do when you grow up?", to which I immediately replied, "I want your job." Although he was pleased that I did get into the school thanks to his help, as a Labour MP I suspect that he was probably relieved that I did not get his job. But by following in his footsteps and adopting the title of Edmonton, I hope that in time, I will earn the same respect that he did during his time in this House.

Turning to the subject of today's debate, given that we have this scheme of renewables obligation certificates with a mutualisation mechanism, it makes sense to review the threshold, especially since it was first introduced in 2005. But in the absence of market mechanisms, the challenge for any government central planner is to set a threshold that finds the right balance between the interests of renewables generators and those of electricity suppliers and consumers, especially if renewable energy is seen to mean higher prices for the poorest customers.

As someone who studied engineering as an undergraduate and then went on to work for an economic think tank, I am really excited by the innovations that we are seeing in renewable energy, especially the increased efficiency of renewable power generation—wind, solar and other forms of renewables. I hope that one day soon, renewable energy will be cheap enough to be competitive in a market environment and that we will no longer need state interventions, such as the renewables obligation certificate and the Government setting thresholds.

Once we see a breakthrough in battery storage capacity, this will open up huge new possibilities and could have huge implications for utilities, with local renewable energy regeneration and storage, both on and off grid. This decentralisation will present both opportunities and challenges for electricity suppliers. Furthermore, using renewable energy for electrolysis also offers the potential of green hydrogen providing a clean transport solution for the future.

Innovation, new technology and the fight against poverty are subjects that I hope to return to in future interventions, but for now, I thank your Lordships for listening, and look forward to working with noble Lords across the House for many years to come.

5.03 pm

Lord Kirkhope of Harrogate (Con) [V]: My Lords, before I address the subject of this debate, I pay tribute to my noble friend Lord Kamall and congratulate him on his maiden speech, which, typically, was informative, knowledgeable and entertaining. I say "typically" because I had the pleasure and honour of working closely with my noble friend for many years as a fellow Member of the European Parliament. I see some other familiar faces around the Chamber today as well. We both had the privilege of high office there, but it is much to the credit of my noble friend that he continued almost to the end of the mandate for UK representation to uphold the positive principles of engagement with many other national representatives, especially in our parliamentary group, of which he was leader. In doing so, he ensured continuing and great respect for our country and for himself. I am sure that he will achieve much in our House.

We live in a changing world. On this day in particular, one year on from the start of the Covid crisis, many of us are reflecting on the future as we remember the past. So many things are changing and in need of change, no more so than in the field of the environment, with the UK hosting the COP 26 conference later this year, and as part of that policy area in the way our energy needs are met as we move towards a zero-emission outcome.

Some will say that everything was much simpler in the old days. My late father worked in the electricity supply industry. Coal-fired power stations were all over the place in my native north-east, and consumers obtained their power from local and regional monopolies. The thread from generator to consumer—or wire—was direct and understandable. The measure before us demonstrates how complicated we have become in the ways in which we compensate our generators for renewable energy initiatives, and how our free-market instincts, while they are generally of benefit to consumers, can go wrong.

Noble Lords will be pleased to hear that I am not going to delve too far into the technical and administrative details of the renewables obligation scheme, except to comment that it should perhaps have been monitored better from the start and taken, as we are now doing with this measure, at a much earlier point. The key moment was in 2015, when the new licence arrangements to possible new entrants to the electricity supply sector were formulated. Encouraging new entrants, especially those offering an emphasis on green energy, was good news, and today we have a much wider choice of suppliers, tariffs and sources of power, but that change has also resulted in problems with the ROC scheme. Some of the new entrants have failed, some have not honoured their obligations to pay the sums agreed to in order to undercut rivals and, despite the intervention of Ofgem a year or so ago to tighten up the rules of entry into the market, the shortfall of moneys due has continued.

As I understand it, the impact on generators should be minimal with these provisions unless the value of certificates is reduced because of any shortfall in the cash fund caused by suppliers defaulting on their obligations. Could my noble friend explain how generators can be better protected from changes of this kind, bearing in mind the formula in place for these processes?

A growing proportion of our electricity comes from renewable resources. About one-third of the supply is now supported by the ROC scheme, and it is growing. Use of electricity is growing with our transport system in particular, including cars and buses being progressively electrified. It is therefore important that schemes such as this are kept under review as to their structure and outcomes. I believe that Ofgem wants to carry out an annual review on the efficacy of the rules in place. Can my noble friend confirm that?

[Lord Kirkhope of Harrogate]

At the end of the day, it is in all our interests to increase our green credentials. In doing so, we must always consider those involved—the generators, suppliers and, above all, the consumers, who will need ever-increasing supplies of electricity in the years to come.

5.08 pm

Lord Hannan of Kingsclere (Con): My Lords, looking around I see lots of former Members of the European Parliament. I think there are half a dozen speaking in this debate, including my noble friend the Minister, and until a moment ago another was on the Woolsack or perched on the steps of the Throne as I started. It is a tribute to the popularity of our new colleague, my noble friend Lord Kamall, that there should be this support from different Benches. We former MEPs know what it is to deliberate unreported and unremarked; we have what the police might call "previous" in this department. However, I hope that in the circumstances your Lordships will indulge me if I add my voice to previous speakers in welcoming my noble friend Lord Kamall. He is a man of immense breadth of character, a handy cricketer, a brilliant footballer and a very talented bass guitarist, but also a man of extraordinary modesty.

Over the past month, there has been a lot of press coverage of the change of leadership in the Scottish Labour Party. People have been saying that the new Labour leader, Anas Sarwar, is the first Muslim leader of a British political party and the first ethnic minority leader. I wish Mr Sarwar every success: you do not have to be a Labour supporter to want the best for the Labour Party in Scotland. It is a party with a terrific tradition—the party of Keir Hardie, John Smith and, indeed, of that flinty patriot, the noble Lord, Lord Reid, who is sitting opposite now. Of course, anyone who first becomes a dentist and then a Labour MP in Scotland is plainly elevating the public weal above his personal popularity, so I wish Mr Sarwar the best. Yet it is not really the case that he is either the first non-white or first Muslim British party leader, because my noble friend Lord Kamall had led not only a British political party but a coalition of European political parties with extraordinary diplomacy and talent, remaining popular until the end. That is quite some achievement, as his predecessor in that role, my noble friend the Minister, can confirm.

The Motion on the renewables order is a tribute to two aspects of our current energy policy that deserve a little more acknowledgement. The first is the value of an intelligent use of market mechanisms to deliver environmental goals. Aristotle said that that which no one owns, no one cares for; the use of sensitive and carefully laid incentives so as to encourage the private sector to deliver goals which deal with externalities has been one of the great elements of the UK's success in getting to a diversity of supply. Secondly, it illustrates that, very often, the things which make the biggest difference in environmental policy are quite technical issues of this kind, rather than sweeping and sometimes histrionic global statements of intent.

As my noble friend the Minister said, the measure effectively restores the mutualisation proportions to what they were when the Bill was brought forward and the change was first made in the previous decade. I share my noble friend Lord Kamall's ambition that we should get to the point where renewables become competitive, and where technology delivers what state subsidies have, until now, been required to help with as the booster rocket. I support these temperate, judicious and targeted measures.

5.12 pm

Baroness McIntosh of Pickering (Con): My Lords, I am delighted to welcome my noble friend Lord Kamall and congratulate him on a witty and excellent maiden speech. I look forward to hearing further contributions and working with him in his new place of work. This is very much a family occasion because, of the nine noble Lords due to speak, six are former MEPs and three are former leaders of the UK's Conservative delegation. I particularly welcome my noble friend Lady Hooper, with whom I had the pleasure of working in 1983 as a humble staffer when I started out in the European Parliament.

I approach the order before us in my capacity as president of National Energy Action, and very much from a consumer focus. I would like an assurance from my noble friend the Minister, another former leader of the UK Conservative delegation in his time. Can he assure us today that the shortfalls, astonishing in their extent, will no longer reach a level above the threshold being set today? We have to pause for a moment and consider that in three successive years, shortfalls have been reached of £53.4 million, £88.1 million and £31.4 million. Never was it envisaged when these ROCs were first created that we would reach anything like that level of shortfall.

I understand that a shortfall occurs when a company leaves the market—a rather euphemistic expression for market failure, when the company has actually gone bust. That is obviously regrettable, not just for its customers but for other electricity suppliers as well. Can my noble friend assure us today that this will be, as far as possible, avoided under the provisions of the order before us? I gather that there have been a record number of market failures in the last two to three years, leading to the extraordinary breaches of the threshold to which I just referred.

We are told that the suppliers of electricity will pass the increased costs flowing from the order on to consumers: my noble friend said that it would be, on average, a £70 increase to domestic consumer bills. Could he repeat that to clarify it for me? It would be helpful to know what the impact will be on business users. Could my noble friend also say what the impact will be on the Government's green homes scheme and the warm homes strategy, which I follow very closely?

Finally, I press my noble friend the Minister by asking how these additional costs will be passed on to consumers in order to minimise the impact on vulnerable consumers as far as possible. Could he give us an assurance this afternoon that it would be best not to pass these on to those consumers as a fixed charge that hits everyone equally, disregarding their ability to pay? Could he also assure us that they will also not be recovered from those customers on pre-payment meters? With those few remarks, I welcome the order but, obviously, this is a source of concern, with implications for current and future consumers.

5.16 pm

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, I also welcome the noble Lord, Lord Kamall, to his place. It is not the first legislature in which he, the noble Lords, Lord Kirkhope and Lord Hannan, and I have sat, and indeed worked, together, albeit in our respective groups; I look forward to that happening again.

I turn to the order. It is good to see that renewable incentives have worked, as other noble Lords have said. It is also good to see that, in the wider scale of things, we can soon look forward to the tapering off of the schemes, as it becomes no longer necessary to keep on introducing incentives as renewable energy takes its place as a competitive source of energy.

This instrument will reset the balance of the cost of mutualisation so that it is shared between supplier and generator, broadly as it was when the scheme was introduced in 2005. I suppose I can also identify with the comments of the noble Lord, Lord Kirkhope, about how it was perhaps left a bit too long to rebalance and, therefore, it comes as a bigger shock when it happens. Since that time, costs have moved on and the balance is now falling more heavily on suppliers, so, if the cost balance is changed in the manner suggested in this order, suppliers are the winners and generators the losers.

The consultation was predictable, I suppose: the winners were in favour and the losers against. However, adding up the numbers, more seemed to agree with the Government: one supplier disagreed and five generators agreed, and, of the neutrals, three agreed and two disagreed, meaning that, by a net five, the ayes have it.

At the end of paragraph 7.6 of the Explanatory Memorandum, there is a suggestion that, by reducing cost to the suppliers, there will be less to pass through to customers. As the noble Baroness, Lady McIntosh, has indicated, what is passed through to customers is obviously of concern. This raises a question: where does the cost to the generators end up? Part of me cannot help but think that it somehow ends up with households, but could the Minister enlighten me about the effect of costs that now have to be absorbed by the generators?

I have no further pearls of wisdom to dispense on this, and I will not spend any more of the more than adequate time limit to say that, all things being equal and in the absence of any other information, it seems reasonable to restore the cost balance to that which was originally struck. I have no objections to this instrument.

5.19 pm

Lord Grantchester (Lab): I thank the Minister for his clear explanation of the order before the House today. I also thank all the other speakers who have come forward with views and congratulate the noble Lord, Lord Kamall, on his interesting maiden speech. I look forward to many more insights from him on the energy sector and wider issues in the UK economy.

The renewables obligation has been one of the Government's mechanisms to bring forward investments in renewable power to reform the energy market away from reliance on fossil fuels. It has been tremendously successful, as the Minister said. At initiation in 2002, it aimed to bring about 10% renewable energy by 2010. It has exceeded all expectations and presently about 30% of electricity supplied in the UK is generated via the scheme. All that is to be encouraged, and the effect on modernising the UK's power supplies has been considerable.

However, along the way there have been several mishaps and distortions. The most pressing has been the balance of risks and costs between generators and electricity suppliers, which the Government have ignored for far too long and is now the subject of this corrective, restorative amendment. The mutualisation scheme, with a trigger threshold of £15.4 million, resulted in excess payments, as the noble Baroness, Lady McIntosh, said, of £53.4 million, £88.1 million and £31.4 million over the last individual three years falling on suppliers and their customers. Paragraph 7.3 of the excellent Explanatory Memorandum says that with a "notional value" of "£54.43 per ROC",

> "The total value of this support … was estimated at £4.5bn."

The next paragraph explains how these excess mutualisation debts have arisen—a set of circumstances I remember well in my business's energy supplies, with chaotic management and incoherent billing by my supplier resulting ultimately in the supplier's bankruptcy. This amendment order is urgently needed to return the supply market to stable conditions again. We support it today for that stable environment.

An early attempt, introduced by Ofgem, was to set tougher entry tests for energy suppliers before they are allowed to trade. Can the Minister give any figures on how many companies have been denied access through these more stringent tests? It may be too early to reflect how important this element will be in complementing the order to make effective increases to stability. Has the Minister any comments to add about how these tests will substantially ameliorate the problems that businesses like mine will have experienced? I understand that a further two companies have gone bust this year, in addition to the 25 in recent times, resulting in nearly 2 million customers suffering disruption and the mutualisation fund to be paid increasing.

This order seeks as a solution to return the mutualisation threshold to 1% of the cost of the scheme, the initial level it was academically set at in 2005. For the 2021-22 year, the threshold will increase to £62 million. We agree that it restores a balance of risk between generators and suppliers that was established then and to which the consultation did not demur, even if the readjustment will be painful for many generators.

If the percentage is maintained at 1%, will that automatically nullify any future problems? It was originally set at that percentage under the academic assessment that it was at a level where mutualisation arrangements would not arise or be at a level only of immateriality. Does the Minister agree with that assessment—that the mutualisation trigger will return to being immaterial? Will the situation now stabilise? What checks and assessments will be put in place to monitor the effectiveness?

The country remains in a precarious situation in the climate emergency. The initial RO market has been closed to new entrants since 2017. The ceiling on limiting levies on the consumer through the LCF has been replaced by a blanket ban on new levies through the control on low-carbon levies this year.

[Lord Grantchester]

Companies will be running out of time in their 15-year window periods to recover technology costs, yet the country needs further decarbonisation investments urgently. There will be an explosion in levy requirements resulting from the recent announcements on offshore wind and Sizewell C. The Government have announced confidence in the regulated asset base of the future funding models for these huge investments. While these considerations take us some way beyond this order, nevertheless, is the Minister confident that the regulatory support mechanisms will set robust parameters on the costs for consumers; and that fleet-of-foot, small-scale renewables schemes—and the innovations they may contain—will continue to be able to help with progress towards the necessary decarbonisations? There is a long way to go.

5.25 pm

Lord Callanan (Con): My Lords, I thank everyone who contributed to this short debate. I feel as though I should apologise to the House for what has turned out to be something of an ex-MEP fest in terms of the contributions made. I will try the patience of other Members a little longer because it is, of course, a particular personal pleasure to respond to this debate and welcome the excellent maiden speech of my good friend and former ex-colleague—now my colleague again—my noble friend Lord Kamall. I have known him for 16 years. We worked together in the European Parliament. I think the House knows from his excellent, well thought-through, intellectual and witty contribution—I particularly liked the remark about bus drivers—that we will have lots of further excellent speeches from him in the months and years to come, and can look forward to his contributions to our debates, delivered with his usual panache and good humour.

I was going to make a number of other points but, as usual, my noble friend Lord Hannan has stolen all my best lines. One thing that my noble friend Lord Kamall always did when we had the pleasure of serving together in the European Parliament was continue my education because, as a proud Muslim, he is a great exponent of the role that early Islam played in the development of free markets. He is passionate in his belief in and support of that. The other thing that I found particularly ironic and amusing in this House is that, as a proud Muslim, he made his maiden speech from the Benches normally occupied by the Church of England Bishops. He should continue with his challenging behaviour in the months and years to come but, in the meantime, I welcome him and thank him for his remarks. I am sure that the House will continue to benefit from his wisdom in future.

Moving on to the real subject of the debate, I welcome the support of those noble Lords who recognise that the draft SI will ensure that electricity suppliers—and, by association, their customers—are not unduly exposed to the unmet obligations of other suppliers. However, I want to address the concerns of the noble Lord, Lord Moynihan, and others—both in this House and elsewhere—about the impact of this draft SI on renewable electricity generators that are supported under the RO scheme.

The Government are conscious that, under the draft SI, an amount equivalent to 1% of scheme costs could remain unrecovered in the event of supplier payment default. In real terms, this represents an increase from the current £15.4 million to around £62 million in the first instance. On a per-certificate basis, this is equivalent to an increase from around 14p to 55p; bear in mind that, notionally, the value of a certificate is currently around £55.

There is therefore no avoiding the fact that generators will face an increase in the amount of recycle payments that are at risk in the event of supplier payment default. However, let me reiterate for the benefit of the House that the draft SI is restorative. By this, I mean that it restores arrangements that were introduced in 2005 and which have since become eroded to the detriment of suppliers. In this respect, what is proposed here is nothing new.

The Government remain committed to ensuring the RO runs smoothly and continues to provide renewable generators with the level of support they have come to reasonably expect. The Government are also mindful of the impact that mutualisation costs can have on electricity suppliers, whose margins are particularly squeezed, and are equally to committed to ensuring that both they and the customers continue to receive a fair deal. It is the Government's view that this draft SI strikes a balance between these needs.

I am dealing with the individual queries raised by my noble friends Lord Moynihan and Lord Kirkhope, who asked about the impact on generators. As I said, there is a potential small impact on generator returns under the proposed new arrangement, as it increases the sum that might remain unrecovered in the event of supplier payment default. But we are of the view that the benefits for suppliers and their customers of proceeding with this SI outweigh the costs.

My noble friend Lord Moynihan also mentioned the views of Citizens Advice. Our intention is to consult further about the guarantee on liabilities. It is our intention to consult further in the next few months on measures that could be introduced to tackle the perceived underlying causes of mutualisation. This would consider both regulatory-based approaches, which would, for example, require suppliers to post guarantees of security, and legislative-based approaches, which would, for example, require more frequent settlement by suppliers.

My noble friend Lord Kirkhope asked whether Ofgem does an annual report. The answer is yes; it always has and always will. He also asked whether we were taking action too late—perish the thought. We took action in 2018, when it was clear this was not an isolated incident, and Ofgem has recently launched a licensing review.

My noble friend Lady McIntosh asked about suppliers exiting the retail market and what the SI does for consumers. It is a fact of life in the market that, from time to time, suppliers in a competitive retail market will fail, and when suppliers exit the market, for whatever reason, without paying their renewables obligation, a payment shortfall will occur, and this may result in mutualisation being triggered. The SI we are considering today does not address the causes of supplier failure and payment defaults. However, separate action is being taken to tackle those issues. As I mentioned, Ofgem's supplier licensing review is seeking to minimise the likelihood and impact of disorderly supplier failure.

My noble friend Lady McIntosh also asked about the impact on consumers and business users. I reassure her that the SI is good news for consumers and business users alike, as it will lessen the likelihood of mutualisation occurring, which reduces the cost risks that suppliers are exposed to, and we expect that this will reflect in a small reduction in their electricity tariffs.

The noble Lord, Lord Grantchester, asked where the figures came from and whether the SI would prevent mutualisation. The sums at risk are percentages, some of which I quoted, of the cost of the scheme. There are of course no guarantees the new threshold will not be exceeded, but we think it is much less likely under the new provisions.

Finally, the noble Baroness, Lady Bowles, asked about the additional generator costs. Generators must absorb the additional costs should mutualisation be triggered. But we think it is less likely. The SI restores the arrangements that unintentionally have been eroded over the years, tilting the risk back towards the suppliers.

With that, I think I am done with most of the queries I was asked. Therefore, I commend this draft order to the House.

Motion agreed.

Integrated Review: Defence Command Paper

Statement

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

"As a young officer, 30 years ago almost to the day, I was summoned to the drill square to have read aloud key decisions from the Government's defence review at the time, *Options for Change*. We did not know it then, but the world was set for massive change. The fall of the Soviet Union, the rise of China, the global impact of the internet and the emergence of al-Qaeda were some way off, which meant that no one was really prepared for what happened.

I was part of an Army that, on paper, fielded three armoured divisions in Germany but, in reality, could muster much less. It was, in truth, a hollow force. While I know that some colleagues would rather play Top Trumps with our force numbers, there is no point boasting about numbers of regiments while sending them to war in Snatch Land Rovers or simply counting the number of tanks when our adversaries are developing new ways to defeat them. That is why we have put at the heart of the defence Command Paper the mission to seek out and understand future threats and to invest in the capabilities needed so that we can defeat them.

In defence, it is too tempting to use the shield of sentimentality to protect previously battle-winning but now outdated capabilities. Such sentimentality, when coupled with overambition and underresourcing, leads to even harder consequences down the line. It risks the lives of our people, who are truly our finest asset. It would, of course, similarly endanger our people if we simply wielded a sword of cuts, slicing away the battle-proven on the promise of novelty, without regard for what is left behind. Old capabilities are not necessarily redundant, just as new technologies are not always relevant.

We must employ both sword and shield, because those of us in government charged with defending the country have a duty to protect new domains, as well as continuing investment in the traditional ones, but always adapting to the threat. History shows us time and again that failing to do so risks irrelevance and defeat. As the threat changes, we must change with it, remaining clear-eyed about what capabilities we retire, why we are doing so and how they will be replaced.

The Prime Minister's vision for the UK in 2030 sees a stronger and more secure, prosperous and resilient union, better equipped for a more competitive age, as a problem-solving and burden-sharing nation with a global perspective. To become so requires Britain's soft and hard power to be better integrated. In this more competitive age, a global Britain has no choice but to step up, ready to take on the challenges and shape the opportunities of the years ahead alongside our allies and friends. Let us be clear: the benefits and institutions of multilateralism, to which we have all become so accustomed, are an extension of, not an alternative to, our shared leadership and our hard power. UK diplomacy should work hand in hand with the UK Armed Forces abroad, and we will invest in our defence diplomacy network in order to strengthen the influence we can bring to bear. At this point I wish to pay tribute to all our civil servants in the department, and further afield in defence, whose professionalism and dedication are every bit as vital to UK security as all the other component parts of the defence enterprise. In the past, we have been too tempted to fund equipment at the expense of our service personnel's lived experience. That is why we will spend £1.5 billion on improving single living accommodation over the next four years, and £1.4 billion on wraparound childcare over the next decade.

The Government's commitment to spending £188 billion on defence over the coming four years—an increase of £24 billion, or 14%—is an investment in the Prime Minister's vision of security and prosperity in 2030. Previous reviews have been overambitious and underfunded, leaving forces that were overstretched and underequipped. This increased funding offers defence an exciting opportunity to turn our current forces into credible ones, modernising for the threats of the 2020s and beyond, and contributing to national prosperity in the process. It marks a shift from mass mobilisation to information-age speed, readiness and relevance for confronting the threats of the future. These principles will guide our doctrine and our force development.

The integrated operating concept, published last year, recognises that changes in the information and political environments now impact not just the context but the conduct of military operations. The notion of war and peace as binary states has given way to a continuum of conflict, requiring us to prepare our forces for more persistent global engagement and constant campaigning, moving seamlessly from operating to warfighting if that is required. The Armed Forces, working with the rest of Government, must think and act differently. They will no longer be held as a force of last resort but become a more present and active force around the world. Our forces will still be able to warfight as their primary function, but they will also have a role to play before and after what we traditionally

consider as war, whether that is supporting humanitarian projects, conflict prevention and stabilisation, or United Nations peacekeeping.

However, technological proliferation and the use of proxies and adversaries operating below the threshold of open conflict mean that the United Kingdom must also play a role in countering such aggressive acts. As such, the steps to sustaining UK leadership in defence must start with ensuring that we are a credible and truly threat-orientated organisation, and we must do so in conjunction with our allies and friends. Today's reforms will ensure that we continue to meet our NATO commitments on land and enhance our contributions at sea. As the second biggest spender in NATO, and a major contributor across all five domains, we have a responsibility to support the alliance's own transformation for this more competitive age. Today, I am setting out in this defence Command Paper the threats we are facing; our operating concept for countering them; and the investments in our forces that are required to deliver the nation's defences. Those threats demand that we make the following investments in, and adjustments to, the services.

We have been a maritime nation for many centuries, and it is vital that we have a navy that is both global and powerful. The Royal Navy, because of our investment in the Type 26, Type 31 and Type 32, will by the start of the next decade have over 20 frigates and destroyers. We will also commission a new multi-role ocean surveillance ship, which will protect the integrity of the UK's maritime zones and undersea critical national infrastructure. We will deploy new automated minehunting systems, which will replace the Sandown and Hunt classes as they retire through the decade. The interim surface-to-surface guided weapon will replace the Typhoon missile, and we will upgrade the air defence weapon system on our Type 45s to better protect them from new threats. We will invest further to implement the availability of our submarine fleet and start development of the next generation of subsea systems for the 2040s. The Royal Marines will be developed from being an amphibious infantry, held at readiness, to a forward-based, highly capable, maritime-for-future commando force, further enabled by the conversion of a Bay class landing ship to enable littoral strike.

Our land forces have been for too long deprived of investment. That is why, over the next four years, we will spend £23 billion on their modernisation. The British Army will reorganise in seven brigade combat teams—two heavy, one deep strike, one air manoeuvre and two light, plus a combat aviation brigade. In addition, a newly formed security force assistance brigade will provide the skills and capabilities to build the capacity of partner nations. In recognition of the growing demand for enhanced assistance and our commitment to delivering resilience to those partners, we will establish an Army special operations brigade, built around the four battalions of the new ranger regiments. This new regiment will be seeded from 1 Royal Scots, 2 Prince of Wales Royal Rifles, 2nd Battalion Duke of Lancaster and 4th Battalion The Rifles.

Our adversaries set a premium on rapid deployability, so we will enhance the existing 16 Air Assault Brigade with an additional infantry unit, supported by upgraded Apache attack helicopters. Together, they will create a global response force for both crisis response and warfighting. The third division will remain the heart of our warfighting capability, leading in NATO with two modernised heavy brigades. In order to ensure that we are more lethal and better protected, it will be built around a modern armoured nucleus of 148 upgraded Challenger 3 tanks and Ajax armoured reconnaissance vehicles, with the accelerated introduction of Boxer armoured personnel carriers.

As I have repeatedly said, recent conflicts in Libya, Syria and the Caucasus have shown the vulnerability of armour, so we will increase both manning and investments in electronic warfare regiments, air defence and uncrewed aerial surveillance systems, all complemented by offensive cybercapabilities.

The Army's increased deployability and technological advantage will mean that greater effect can be delivered by fewer people. I have therefore taken the decision to reduce the size of the Army from today's current strength of 76,500 trained personnel to 72,500 by 2025. The Army has not been at its established strength of 82,000 since the middle of the last decade. These changes will not require redundancies. We wish to build on the work already done on utilising our reserves to make sure the whole force is better integrated and more productive.

There will be no loss of cap badges and, as I said earlier, the new structures will require fewer units. Therefore, 2nd Battalion The Mercian Regiment will be amalgamated with the 1st Battalion to form a new Boxer-mounted battalion. To administer the new infantry, we will reorganise the regiments to sit in four infantry divisions. Each will comprise a more balanced number of battalions and give the men and women serving in them a wider range of choices and opportunities in pursuing their careers and specialties. To ensure a balanced allocation of recruits, we will introduce intelligent recruiting for the infantry, and each division of infantry will initially feed the four new ranger battalions. The final details of these administrative divisions, along with the wider Army restructuring, will be announced before the summer. No major unit deletions will be further required.

Today's Royal Air Force is now deploying world-leading capabilities: P-8, Rivet Joint, A400M and the latest Typhoons. The F-35, the world's most capable combat aircraft, is now being deployed to front-line squadrons. In recognition of its battle-winning capabilities, we will commit to growing the fleet to 48 aircraft. The E-3D Sentry, two generations behind its contemporaries, will be replaced by a more capable fleet of three E-7 Wedgetails in 2023. These will be based at RAF Lossiemouth, transforming the United Kingdom's early warning and control capabilities, as well as contributing to NATO. As the transport fleet improves availability, we will retire the C-130J Hercules in 2023, after 24 years' service. Twenty-two A400Ms, alongside the C-17s, will provide a more capable and flexible transport fleet.

Our counterterrorism operations are currently supported by nine Reaper drones, which will be replaced by Protectors in 2024. These new platforms will provide the enhanced strategic ISR—intelligence, surveillance and reconnaissance—and strike capabilities that are so vital for all our forces.

All forces evolve, and the increasingly competitive and complex air environment means that we must set the foundations now for our sixth generation of fighter. The Typhoon has been a tremendous success for the British aerospace industry and we will seek to repeat that with £2 billion of investment in the future combat air system over the next four years, alongside further development of the LANCA unmanned combat air vehicle system. We will continue to seek further international collaboration. All services recognise the importance of unmanned aerial systems, which is why we will also develop combat drone swarm technologies. To ensure that our current platforms have the necessary protection and lethality, we will also upgrade the Typhoon radar and introduce SPEAR Cap 3 deep strike capabilities.

The lessons of current conflict demonstrate that however capable individual forces may be, they are vulnerable without integration. UK Strategic Command will therefore invest £1.5 billion over the next decade to build and sustain a digital backbone to share and exploit vast amounts of data through the cloud and secure networks. To ensure that our workforce are able to exploit new domains and enhance productivity, the command will invest in synthetics and simulation, providing a step change in our training.

The National Cyber Force will lie at the heart of defence and GCHQ's offensive cybercapability and will be based in the north-west of England. The need to keep ourselves informed of the threat and ahead of our rivals means that defence intelligence will be at the heart of our enterprise. We will exploit a wider network of advanced surveillance platforms, all classifications of data and enhanced analysis using artificial intelligence.

Strategic Command will partner the RAF to deliver a step change in our space capabilities. From next year, we will start delivering a UK-built intelligence, surveillance and reconnaissance satellite constellation. Space is just one area in which the Ministry of Defence will prioritise more than £6.6 billion-worth of research, development and experimentation over the next four years. Those investments in our future battle-winning capabilities will be guided by the science and technology strategy of 2020 and a new defence and security industrial strategy to be published tomorrow.

Our special forces are world leading. We are committed to investing in their cutting-edge capabilities to ensure that they retain their excellence in counterterrorism, while becoming increasingly capable of also countering hostile state activity.

To conclude, if this defence Command Paper is anything, it is an honest assessment of what we can do and what we will do. We will ensure that defence is threat-focused, modernised and financially sustainable, ready to confront future challenges, seize new opportunities for global Britain and lay the foundations of a more secure and prosperous United Kingdom. We will, for the first time in decades, match genuine money to credible ambitions; we will retire platforms to make way for new systems and approaches; and we will invest in that most precious commodity of all—the people of our Armed Forces.

To serve my country as a soldier was one of the greatest privileges of my life: serving to lead, contributing to keeping this country safe, upholding our values, and defending those who could not defend themselves. Putting oneself in harm's way in the service of our country is something that, fortunately, few of us are ever required to do, but we all have a duty to ensure that those who do so on our behalf are as well prepared and equipped as possible. Therefore, the success of this defence Command Paper should be judged not on the sophistication of its words, but on the implementation of its reforms and, ultimately, on the delivery of its capabilities into the hands of the men and women of the Armed Forces. It is they who keep us safe and will continue to do so in the years ahead. It is to them, their families and all those across defence that we owe it to make this policy into reality. The work to do so has only just begun."

5.35 pm

Lord Tunnicliffe (Lab) [V]: My Lords, as we mark one year since lockdown began, I start by thanking the Armed Forces for their help during the pandemic. They have been essential to our response, from building hospitals to assisting with the vaccine programme, and we owe them a great deal.

In the last defence review, the Government identified the risk posed by pandemics. That document claimed that the Government had

"detailed, robust and comprehensive plans in place".

But, after one of the world's worst death tolls and worst recessions, clearly the Government were not prepared. Covid shows that resilience cannot be done on the cheap. Full-spectrum society resilience will require planning, training, and exercising that must be led by the Government and involve the private sector, local agencies and the public, so the reference to,

"Building resilience at home and overseas"

in the Command Paper is welcome, but it is disappointing to see how little there is on lessons learned from Covid. Can the Minister tell the House that the comprehensive national resilience strategy will be published, at the latest, before the autumn, when a further wave is a real possibility?

Turning to the rest of the integrated review and Command Paper, we want them to succeed, to keep our citizens safe and to secure Britain as a moral force for good in the world, but we cannot escape how the two previous reviews, as well as recent actions of the Government, have weakened our foundations. Some £8 billion cut from the defence budget, 45,000 personnel cut from the Armed Forces, £5 billion cut from international development, and this review is set to repeat many of the same mistakes, with more reductions in the strength of our forces and crucial military capabilities. How will the loss of 10,000 personnel affect our relationship with our key allies and NATO? In total, how many jobs in the defence industry will be lost as a result of axing Warrior vehicles and Challenger tanks? I fear that the "era of retreat", as the PM called it, will not end but be extended.

The Secretary of State says that he wants to

"match genuine money to credible ambitions",

but it is not clear from the paper how that will be done. Ministers like to talk about the rise in capital funding, but not the real cut in revenue funding over the next four years. Can the Minister guarantee that core

[Lord Tunnicliffe]
programmes will be fully funded? With a black hole of £17 billion in current programmes, how much of the extra money will be swallowed by this? What new processes have been installed to allow the MoD to learn the lessons of previous overspending?

The review also marks a new shift in the UK approach to nuclear. Labour's commitment to the renewal of our deterrent is non-negotiable, alongside our multilateral commitment to nuclear disarmament and greater arms control. But the reversal of 30 years of all-party non-proliferation policy for the UK is a serious decision, and this Command Paper does not clearly explain why it is necessary. What is the strategic thinking behind lifting the cap? How are we going to use our P5 status to press for new generations of arms-control treaties? As the Command Paper rightly identifies, threats are proliferating and becoming increasingly complex and continuous, so we should recognise the new domains of cyber, AI and space—but new technologies take years to come on stream. China has invested $31 billion in AI since 2016 and the US is already spending more than $10 billion a year on AI. Will the Government's investment allow us to catch up?

It is also right that we recognise climate change as a "threat multiplier" that will

"drive instability, migration, desertification, competition for natural resources and conflict."

Yet, despite it being launched over a year ago, we are still waiting for the MoD's sustainability and climate change strategy. When will this be published?

There are clear inconsistencies at the heart of the review. The Command Paper says that Russia

"continues to pose the greatest nuclear, conventional, military and sub-threshold threat to European security."

But the Government have still not fully implemented any of the Intelligence and Security Committee's Russia report's 21 recommendations. This has left a big gap in our defences which must be filled.

The ambition has been laid out, but it is the actions of the Government that will keep the country safe and allow Britain to be a moral force for good in the world. These actions need to be taken in response to national security threats in co-ordination with allies in order to grow national resilience and jobs back home, and in line with our international commitments. We will continue to hold government actions to these standards in the years ahead.

The Statement and Command Paper are full of fine words—defence Statements always are—but the question is whether there is substance behind the words. To answer that question, we need a full day's debate to mobilise the wisdom and experience of our Back-Benchers. Accordingly, I have made requests through the usual channels and I hope that the Minister will be able to support me in that request.

Baroness Smith of Newnham (LD): My Lords, from these Benches I echo many of the words of the noble Lord, Lord Tunnicliffe, and there are certain questions that I will therefore not reiterate. However, one area that I would like to reinforce is our gratitude to our Armed Forces. The second point that I shall reiterate to the Minister and, in particular, to the Government Chief Whip and the usual channels is that we need a serious debate on defence, covering at least a day. At Second Reading of the Overseas Operations (Service Personnel and Veterans) Bill, I believe there were 67 speakers. Many Members of your Lordships' House have expertise and would be able to contribute very effectively to serious debate and scrutiny of the integrated review and the defence Command Paper. Two Statements, one last week on the integrated review and one today on the defence Command Paper, will only touch the surface.

The integrated review was supposed to bring together security, defence, foreign policy and development. However, for defence, we had a Statement on funding at, I think the end of the last calendar year; today, we have the Command Paper; tomorrow, an industrial policy paper is coming forward; and the Armed Forces Bill is coming, as is, according to the Command Paper, a defence accommodation strategy. All are clearly welcome, but it would be even more welcome if we had a real sense and belief that the review that came forward last week was truly integrated, truly strategic and genuinely provided a review of all our international and security challenges, capabilities and commitments.

The Statement, which the Minister has not had to repeat, raises a set of questions about the future of our defence. The Secretary of State started with his time in the Army and referred to a whole series of reviews over the past 30 years. It is clear that the increase in defence expenditure announced last year is important but, as the noble Lord, Lord Tunnicliffe, pointed out, there are questions about value for money. What work have the Government put in to ensure that defence procurement will provide value for money? Will we be able to ensure that the long-term capital expenditure is scrutinised and delivers for the country?

I want also to ask about our co-operation with partners and allies, which is touched on throughout the paper. The commitment to working within NATO is absolutely clear, but there is talk of a tilt towards the Indo-Pacific. What conversations have Her Majesty's Government had with India? Does it have the same views as the Foreign Secretary or the Defence Secretary about the importance of co-operation, or are we trying to catch up and persuade India that it is important to work with the United Kingdom?

The threats from Russia and China are made explicit in this Command Paper, yet there also seems to be an attempt to work with China in terms of trade. Can the Minister tell us what is more important—trade or defending ourselves against China? Is there a real strategy here?

I turn finally to the nuclear deterrent. There is a suggestion on page 7 that our adversaries are breaching the terms of international agreements. What about breaches made by our allies, and indeed, what is the danger if the United Kingdom threatens to breach them? Like the noble Lord, Lord Tunnicliffe, and the Labour Benches, we are committed to multilateral disarmament. While we are committed to the deterrent, we are also committed to multilateralism. Does the proposal to increase the number of warheads not fly in the face of the United Kingdom's multilateral commitments? Should we not think again in that regard?

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, I thank the noble Lord, Lord Tunnicliffe, and the noble Baroness, Lady Smith, for their welcome recognition of the contribution made by our Armed Forces to the Covid response during a worrying and disturbing time for everyone. I think we are united in admiring what our Armed Forces have been able to do to contribute to the response and I appreciate that being both acknowledged and welcomed in the Chamber.

The noble Lord, Lord Tunnicliffe, raised a number of issues, including the comprehensive resilience strategy and the date of its publication. I do not have with me the specific date, but I shall undertake to look into it and respond to him. The noble Lord was slightly gloomy about the prospect of this vision for our defence capability and referred to previous strategic defence reviews. I say to him that I remember starkly the review that had to take place in 2010 because, as he will recall, having been in government prior to then, at the time we were facing a £38 billion black hole in the MoD budget. I remember it clearly because in flashing red lights above it was the future location of our RAF base at Lossiemouth. I am not given to going on demos, but I was moved to go on one, with cross-party support, marching in Lossiemouth in an effort to save the base. I am very glad that I went on that demo. I shall not say that it gave me an appetite for going on others, but I am absolutely delighted that we succeeded in saving Lossiemouth. It now occupies, as your Lordships will be aware, a position of strategic importance in our response to the threats we face. I would argue to the noble Lord, Lord Tunnicliffe, that the response and vision set out in our defence White Paper is vibrant, visionary, exciting and dynamic. Importantly, it also lays out a strategy that is funded.

The noble Lord expressed concerns about the RDEL budget. I reassure him that, averaged over the years, the budget will increase and, while broadly flat when using the OBR inflation assumptions and the GDP deflator, it will still increase by 0.1% over the period. I can reassure him that, as we modernise equipment and identify estate that is no longer fit for purpose, we anticipate reducing costs. Further, as he will be aware, we now face stringent Treasury rules. We have improved our practices in procurement of equipment, so some of his speculation about the future for these issues is rather bleak and not well founded.

The noble Lord and the noble Baroness, Lady Smith, raised the issue of our nuclear deterrent. I welcome from both sides of the Chamber a clear commitment to our nuclear deterrent. It is vital. It is essential that it remain credible, and that is why there has been a decision to increase the number of warheads. The inescapable virtue of a deterrent is that if it is not credible, you might as well start placing it in the scrapyard tomorrow. In fact, the acid test of a deterrent is: has it stopped happening the things that it is meant to deter? We all know the answer to that, and that is why we need the deterrent at the moment, why it must be credible and why we have made the decision to increase the number of warheads. But I would, of course, emphasise that it is not a target; it is a ceiling.

The noble Lord, Lord Tunnicliffe, also raised the issue of artificial intelligence—AI—which is an extremely important area of our activity. He will be aware of the sums we are allocating to research and development and to our new stratagems in that direction, and I think that is to be encouraged. It will transform how we respond to the new generation of threats we face, and I am satisfied that that is both an intelligent and substantive response to that nature of threat.

The noble Lord also raised the question of climate change, sustainability and the strategy within the MoD. I am pleased to say that a very thorough and extensive report was completed which attracted admiration within the department. It certainly made clear to the department the decisions we will have to take and the objectives we should have. I will inquire about whether I can share some of that information with him, because it paints a very positive picture.

The noble Baroness, Lady Smith, along with the noble Lord, Lord Tunnicliffe, raised the question of a defence debate. No one is more enthusiastic about a defence debate than I am, and I will certainly speak to my noble friend the Chief Whip and say that, if time can be found in the schedule, it would be a very worthwhile deployment of time in this Chamber. I would be very happy and proud to represent the Government's position on defence on that occasion.

The noble Lord, Lord Tunnicliffe, specifically mentioned R&D and what we are investing. We have committed to spend £6.6 billion on research and development in the next four years to accelerate advanced and next-generation capabilities. That reverses a decline in R&D across recent decades, once again elevating us to the status of a world-leading science nation. There was interest from both the noble Lord and the noble Baroness in what we are doing with all this investment. The answer is that we will drive innovation in game-changing technologies that offer generational leaps, so that we can outpace our adversaries and give us a decisive edge. This will deliver capabilities that are agile, interconnected and data driven.

I think it was the noble Baroness, Lady Smith, who raised the integrated review. As she is aware, the integrated review identified four overarching objectives: sustaining strategic advantage through science and technology; shaping the open international order of the future; strengthening security and defence at home and overseas; and building resilience at home and overseas. The defence White Paper is a very substantial response to these overarching objectives, and it indicates clearly how defence sees itself fitting into the pursuit of these objectives and making that essential contribution to our global reach.

The noble Lord and the noble Baroness raised the issue of value for money. As I observed earlier, we are making great strides through the reformation of our business case processes, greater transparency and greater accountability for SROs and our continuous improvement of the skills in defence to tackle these vital decisions. I also mentioned that the Treasury is ever vigilant in watching over what we get up to, and there is new and stringent guidance for all investment decisions, including major programmes.

The noble Baroness, Lady Smith, raised the matter of our allies and, specifically, the matter of China, and that is a very important issue. When you have allies—obviously, one of our most important alliances is NATO

[Baroness Goldie]
—the one thing that you want to reassure your partners in any alliance about is that you are serious about the commitment that you are being asked to make. I think that this White Paper will demonstrate to our allies that we are absolutely serious. As she knows, we are the second-biggest contributor to NATO and the biggest spender in Europe on defence. The White Paper simply cements and corroborates our commitment to defence—not just to talk about it but to put our money where our mouth is and deliver the things that absolutely matter to meet the new and different threats we face, which are of a character we have not previously been familiar with.

In relation to China, which the noble Baroness specifically raised, I think that she posed the question whether it should be trade or defence. I think, actually, there is room for both. It seems to me that it is necessary, as we propose to do with an enhanced forward presence and forward engagement, to make it clear that our presence is serious. We seek to influence and to avoid conflict arising, and by our influence we contribute to that end. But it is also important, if we are to understand what one of the major global powers is doing, that there has to be another relationship, both diplomatic and economic, and that relates to trade.

I hope that I have answered all the points that the noble Lord and the noble Baroness raised. If I have overlooked anything, I undertake to write.

The Deputy Speaker (Baroness Henig) (Lab): We now come to 20 minutes allocated for Back-Bench questions. I ask that questions and answers be brief so that I can call the maximum number of speakers.

5.57 pm

Lord Boyce (CB) [V]: My Lords, we should all broadly welcome the defence Command Paper, which puts our Armed Forces in a much better position than they found themselves in after the last two defence reviews. Noble Lords will note the emphasis on a stronger global maritime strategy and persistent forward presence, which should be applauded. However, the workhorses of delivering such a strategy—our destroyers and frigates—are to be reduced from the presently inadequate 19 to 17. The Minister will no doubt attempt to reassure your Lordships about the new Type 26 and Type 31 escorts coming online, but these are years away from becoming operational. Would she agree that every effort should be made to coerce the shipbuilding industry, which the Command Paper extols, to expedite their delivery? The length of time given to build these ships is lamentable.

Baroness Goldie (Con): I thank the noble and gallant Lord. He raises an important point. I would observe that, across the piece, the programme for shipbuilding over the next 10 to 15 years is exciting and substantial. On our immediate ambitions, as the noble and gallant Lord said we are building eight Type 26 frigates on the Clyde and currently assembling five Type 31 frigates in Rosyth. These are important shipping orders. They are doing well, as far as I am aware. They are coping well with the challenges that we have seen over the last year. We certainly anticipate delivery on time.

The noble and gallant Lord will also be aware that we will probably mothball some of the Type 23s which have not been operational. He mentioned a figure of 17, but I would far rather have 17 workable, operational frigates that we can call on than a notional figure of something else with perhaps only 14 being operational. At least we are now much clearer on what we have, and that these things will be working and can be deployed when we need them. Looking at the transition is not to get the whole picture; you have to look at the overall future. As he is aware, that means Type 26 and Type 31 frigates, and eventually Type 32s, as well as fleet solid support ships, six multi-role support ships, an LSD(A) and a multi-role ocean surveillance ship. There is a really exciting package of shipbuilding in there that I hope my friend, the noble Lord, Lord West, will also be excited about.

Lord Trefgarne (Con): My Lords, it is good to ask a supplementary question on this after seeing my noble friend Lord Younger on the Front Bench, because I had the privilege of serving in the Ministry of Defence under his late father. I ask my noble friend the Minister whether the policy of continuous at-sea deterrence remains in place. There has been some press comment recently about some industrial difficulties at Faslane and Coulport, which might risk that policy. By continuous at-sea deterrence, I of course mean that, at every hour of every day of every night, somewhere in the world, one of our Trident submarines is on patrol ready to respond, should our supreme national interest so require it.

Baroness Goldie (Con): Without hesitation, I reassure my noble friend that such is the case; the continuous at-sea deterrent is just that. It has been doing that important job without interruption. I am aware of his concern about industrial action and understand that it is under control and will not obstruct the operation of our CASD.

The Lord Bishop of Portsmouth [V]: My Lords, there is much to be welcomed in the defence Command Paper and the integrated review. As the Bishop of Portsmouth, I particularly welcome the ambitious signals to British shipbuilding for the Navy. However, I worry that, noting the tilt to the Indo-Pacific and expansion of Britain's geographical scope into Africa, the integrated review does not suggest reducing the UK Government's commitments anywhere, yet the proposed cuts to the Armed Forces mean the smallest full-time Army for centuries. Size is not everything, but are we asking too much of the Armed Forces? Do we risk overstretch? We seem to be gaining commitments, while failing to resource the resolution of existing challenges. Can the Minister indicate how the Government intend to flesh out their order of priorities?

Baroness Goldie (Con): I reassure the right reverend Prelate that, as he is aware, we currently engage in activity in Africa, partly with the United Nations and partly with other allies. That is where we help in trying to defeat terrorism and assist with capacity building. We are satisfied that the plans we have laid out are not just capable of discharging our existing obligations but, because of the focus that we have on a reconfigured

and different kind of military force, make us better placed to deal with some of the challenges that we are facing. The right reverend Prelate is aware of the exciting vision for the Army, which involves a number of changes, not least brigades with specific functions and the creation of the Ranger regiment. It is marginally smaller, because the change is not hugely significant, but this regiment is going to be fleet of foot, highly trained, with a professional focus, and the right equipment and technology, so that we can have it where we need it quickly, doing the job that it is required to do.

Lord Snape (Lab): Can the Minister tell us whether the latest reduction of our Armed Forces will have any impact on the type of operation that the British military conducts in future? Can she confirm that the Trident replacement programme will be subject to a separate debate and possibly a vote, in the other place? I remind her that, before the last election, the Prime Minister said that he would not be

"cutting the armed services in any form".

What does this review mean if it is not a cut?

Baroness Goldie (Con): The review means that we have recognised the pace of change to both the intensity and the character of the threat. The noble Lord is aware that it is now in a multidimensional form with which we were not familiar 10, 15 or even five years ago. It requires us to respond with resilience and flexibility, not rigidity. That is why it is no longer appropriate to measure effectiveness by mass. We need to measure the skills and talents that we have, the swiftness of response, the professionalism of our training, the equipment and the technology. That is the sensible and intelligent way to respond to the new character of the threat.

Baroness Miller of Chilthorne Domer (LD) [V]: Can the Minister explain the logic of increasing our reliance on nuclear weapons and decreasing our conventional forces given that this increases the danger of nuclear proliferation, and can she say how a 40% increase in our nuclear capacity is compliant with Article 6 of the nuclear non-proliferation treaty?

Baroness Goldie (Con): I have already indicated to your Lordships why we consider maintenance of a credible minimum nuclear deterrent to be absolutely essential, and it is our judgment that the increase in warheads is essential to underpin that. That is not escalating nuclear weaponry but simply ensuring that the deterrent as it currently exists is adequately supported and capable of doing the deterrent job which it is there to do. We are satisfied that we are compliant with the non-proliferation treaty; of the stated nuclear stockpile nations, we have the lowest stockpile.

Lord Craig of Radley (CB): My Lords, the innovative, offensive National Cyber Force taking shape with defence SIS and GCHQ participation will presumably involve the ministerial responsibilities of both the Foreign Secretary and the Defence Secretary. To which Minister and which senior military or civilian officeholder will the commander of this force be primarily responsible, and indeed, has the appointment been announced?

Baroness Goldie (Con): The noble and gallant Lord is quite correct that this is a shared departmental responsibility. I am unable to say whether the command structure has been identified but I shall inquire about that and undertake to write to him.

Lord Lang of Monkton (Con) [V]: [*Inaudible*]—review, which I warmly welcome. The proposals for Army numbers stand out alarmingly, and that is the cause of my plea. The Army is the enduring core of national defence, the glue that holds combined operations together, yet another reduction—this time of over 12.5%—will mean that it will have halved in size over the last 30 years. That does not seem credible to me, and credibility is vital both as a deterrent—deterrence applies not just in nuclear—to potential enemies and as a reassurance to allies, yet our Army will be smaller than those of France, Italy, Spain and Germany. Does the Minister agree that defence needs more than platforms and robots, that boots on the ground will always be needed, and that hollowed-out battalions and a hollowed-out Army are neither efficient nor inspiring of confidence? Will she carry this message to the Government? A drone can assist a soldier on the ground, but it cannot replace him.

Baroness Goldie (Con): We are aware that much of the conventional and traditional format of the military again has been overtaken by technology. We have seen, for example, what can happen to traditional types of metalwork armoured vehicles made possible by the interception and attack of unmanned drones. We have to recognise that, because of technology, many members of our Armed Forces are now able to do things with fewer people that they could not do in years gone by. What absolutely matters is that we have the skill, resilience, flexibility, technology and equipment to ensure that our Armed Forces are absolutely able to operate at their best, and that means that much of what we depended on before for numbers of boots on the ground has been superseded by innovation and new developments. However, our Armed Forces will be crack forces doing an important job.

Lord West of Spithead (Lab): My Lords, the integrated review and this defence paper are extremely important documents. To pick up the Government's wording, they are critical to the "sovereignty, security and prosperity"—and possibly the survival—of our nation. That is so important that to have two repeat Statements in the last dog watch, one each week, is really not very appropriate. I know that the noble Baroness agrees that there should be a debate. We need to push this harder. It is a disgrace that this Chamber, with its deep reservoir of knowledge, will not have a proper debate. This really needs to be pushed. The survival of this nation, possibly—its sovereignty, its security? It is not good enough that it is not discussed.

In the few seconds I have left, I will add that, after 56 years on the active list, I have often been told about jam tomorrow, and too often it has turned to margarine. I am very worried that the cuts we are having will not be covered by jam in the future. Jam disappears: it has a habit of doing that.

[LORD WEST OF SPITHEAD]

My final question is on numbers of people. Will the work being done by the noble Lord, Lord Lancaster, on reserves, provide the men who will be needed for MACP, resilience, disaster relief et cetera around the UK, because the regular services will not be able to do that?

Baroness Goldie (Con): I say to the noble Lord that business in the Chamber is not my responsibility; it is the responsibility of his and my colleagues, working through the usual channels. Your Lordships will all be aware that an extraordinary amount of time in the Chamber has, rightly, been deployed on the consideration of the consequences of a pandemic, not least in relation to health issues, social support and related educational and broader welfare issues. This Chamber has been coping with a lot. I have welcomed the idea of a debate. The noble Lord referred to two Statements in quick succession. No one is more aware of that than I am: tonight will be a busy night for me, and I look forward to further engagement tomorrow.

On the "jam tomorrow" charge, I would say that it is perfectly clear from the figures disclosed by the Government that there is jam today waiting to be invested. There is an exciting programme of investment, there is a vision and a strategy set out. I think it is relevant and, at last, meeting the threat that we face: that rapidly changing, very diverse, different threat from that which many of us have previously known. It is a new world, and this is an exciting response by the Government and the Ministry of Defence to that world.

Lord Campbell of Pittenweem (LD): My Lords, as the noble Baroness mentioned Lossiemouth, and as I had the good fortune to be the Member of Parliament for RAF Leuchars for some 28 years, let me ask her a question about the Royal Air Force. Why have the Government refused in this review to commit to purchase any more F35 Lightning aircraft? Does this mean that, as will be the case when the carrier "Queen Elizabeth" deploys to the Far East in the summer, it will always have to rely in part on American aircraft and United States Marine Corps pilots?

Baroness Goldie (Con): As the noble Lord is aware, we have a partnership at the moment with our American friends, who provide support to the carrier. That is a matter of merit; it is about alliance, friendship and interoperability, and we should understand that. The Government's commitment is to increase the fleet size of Lightning beyond the 48 aircraft of which we are aware. I hope that reassures the noble Lord.

Lord Dannatt (CB) [V]: My Lords, now that the Regular Army is once again to be reduced in size in order to provide additional funds for the defence equipment programme, can the Minister give an idea of the thinking within the Ministry of Defence about increasing the size of the Army should the Government of the day wish to take part in a large operation, such as the two Gulf wars, or an enduring operation, such as those in Iraq and Afghanistan? My concern is that the future may not look how we might wish it to look; however, history has a habit of repeating itself.

Baroness Goldie (Con): I say to the noble Lord, whose experience in these matters I hugely respect, that we have to look at the future very much on the basis of working with partners, friends and allies. We also want to look at a future where, with a forward presence, we hope to avert the possibility of conflict; it is far better to do so than to go to war. It is also better to be a presence, perhaps assisting and facilitating a diplomatic intervention which may be critical in such avoidance. The noble Lord will be aware that the MoD always has to be cognisant of what may be around the corner, and, certainly, that is part of our longer-term strategy for keeping that resilience to be able to cope with what may be in front of us.

Lord Robathan (Con): My Lords, it is a great pity that this thoughtful and considered defence review should be so spoilt by the unwise and, I think, dangerous decision to reduce substantially the size of the Army, to the consternation of our allies, the satisfaction of potential adversaries and, I fear, to the detriment of both the Armed Forces and our defence. However, I shall not bang on about that; instead, I shall ask my noble friend the Minister, who knows about these things, about another threat to the United Kingdom entirely—namely, the threat to the union. To what extent can this new Command Paper assist in bolstering the union of the United Kingdom?

Baroness Goldie (Con): I am very grateful to my noble friend for raising something of critical importance because we in this Chamber are all aware that the MoD depends greatly upon the presences that we have throughout the United Kingdom. I mentioned Lossiemouth in Morayshire earlier, and of course we also have the submarine headquarters base at Faslane, RAF Valley in Wales and, obviously, numerous significant presences in England and, to some extent, in Northern Ireland. My noble friend is absolutely correct: we need these strategic presences within the union, but, actually, I argue that these nations need the MoD. For example, the spread of personnel in Scotland—regulars, reserves and civilians—totals just over 18,500; in Wales, that spread totals 4,940, and in Northern Ireland it is 4,620. That is before we look at jobs supported by industry expenditure: in Scotland there are 12,400, in Wales there are 5,700 and in Northern Ireland there are 500. That denotes how invaluable the devolved nations are to the MoD, as is the whole of the UK, including England—and it denotes how they benefit from that MoD investment in them.

Lord Reid of Cardowan (Lab): My Lords, we have always maintained that the purpose of our nuclear weapons is nuclear deterrence, not war fighting. That is reflected initially on page 76 of the Command Paper, but it goes on to say:

"However, we reserve the right to review this assurance if the future threat of weapons of mass destruction, such as chemical and biological capabilities, or emerging technologies"—

I assume that this includes cyber—

"that could have a comparable impact, makes it necessary."

In other words, in three sentences, we have shifted to a position where we are apparently prepared to use nuclear weapons in response to any form of aggression.

Does the Minister understand that huge step away from deterrence and towards war fighting with nuclear weapons? Does she realise the Pandora's box that that will open if the Government proceed?

Baroness Goldie (Con): The protocols surrounding nuclear weapons have been widely understood. They exist as a deterrent and to do that job in the hope that they never have to be used. I said earlier that the test of a deterrent is just that: has it deterred what it is supposed to? The current deterrent has done that for well over 60 years. It is the deterrent aspect that is all-important, and that makes it an effective presence within our MoD capability.

The Deputy Speaker (Baroness Henig) (Lab): The time for questions has now elapsed.

Fire Safety Bill

Returned from the Commons

The Bill was returned from the Commons with reasons. The Commons reasons were ordered to be printed. (HL Bill 187)

Air Traffic Management and Unmanned Aircraft Bill

Returned from the Commons

The Bill was returned from the Commons agreed to with an amendment and with a privilege amendment. It was ordered that the Commons amendments be printed. (HL Bill 188)

House adjourned at 6.19 pm.