Vol. 811
No. 217

Monday
19 April 2021

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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

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

House of Lords

Monday 19 April 2021

1 pm

Prayers—read by the Lord Bishop of London.

Arrangement of Business

Announcement

1.09 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.

Death of a Member: Lord Judd

1.09 pm

The Lord Speaker (Lord Fowler): My Lords, I regret to inform the House of the death of our very good friend the noble Lord, Lord Judd, on 17 April. On behalf of the House, I extend our sincere condolences to the noble Lord's family and to his friends.

Arrangement of Business

Announcement

1.10 pm

The Lord Speaker (Lord Fowler): My Lords, Oral Questions will now commence. Please can those asking supplementary questions keep them short and confined to two points and, obviously, could Ministers also keep their answers brief?

Family Policy

Question

1.10 pm

Asked by ***Lord Farmer***

To ask Her Majesty's Government, further to the remarks by the Lord Chancellor on 17 June 2020 (HC Deb, col 902), what progress they have made towards joining up family policy across government so that it is "fit for the 2020s".

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con): My Lords, families play a primary role in caring for and educating their children. The right honourable Secretary of State for Education is charged with driving family policy across government. The Government announced £27.3 million for the family fund in 2021-22 to support over 60,000 families on low incomes raising children with disabilities and serious illnesses. We are also investing over £14 million to champion family hubs.

Lord Farmer (Con): My Lords, I thank my noble friend for her reply. The Lord Chancellor was referring to current lack of support for separating couples, whose conflicts may be amplified by 2020-style no-fault divorce reform, which legalises one party unilaterally leaving the other without recourse. Mr Justice Cobb's Family Solutions Group highlighted the role of family hubs, a classic cross-departmental policy in supporting separating couples. Can my noble friend say what progress has been made in providing such support in readiness for these legal changes to divorce?

Baroness Berridge (Con): My Lords, we are creating the new national centre for family hubs to provide expert advice, guidance and advocacy to support local councils in developing those family hubs. They will be very much locally grown and locally specific and should be part of the relationship support network for families who need it.

Lord Anderson of Swansea (Lab): My Lords, does the Minister agree that all government departments should recognise the vital importance of family to the well-being of society, particularly of course in the field of taxation policy? To that end, will the Government consider the case for including in all draft legislation of relevant departments a family impact assessment?

Baroness Berridge (Con): My Lords, indeed, since 2014 there has been the family test, which I believe is led out of the Department for Work and Pensions, which asks government departments to consider the impact of their policies on families.

Lord Dodds of Duncairn (DUP) [V]: My Lords, strong families are the bedrock of a strong society, and we need to ensure, especially now, that families get the support they need at the time that they need it. Can the Minister outline what further help will be given to fund support for relationships, marriage and reconciliation, especially for those who do not have support networks such as other family members to rely on for help and advice?

Baroness Berridge (Con): My Lords, that is precisely why the Government committed to championing family hubs to provide a locally based—through local authorities—support network. The noble Lord may be aware that the family justice reform group is also looking at matters for those families to try and avoid, if at all possible, people coming through the family justice system and encouraging them to resolve things amicably.

Baroness Eaton (Con) [V]: My Lords, the troubled families programme is a commendable example of the benefits of a cross-government approach to policy. However, there is still insufficient co-ordination of support across departments for families to ensure that children and young people achieve better outcomes. In which specific cross-departmental policy areas is the Cabinet-level lead for families, the right honourable Gavin Williamson MP, bringing together ministerial colleagues, and what progress has been made?

Baroness Berridge (Con): My Lords, the noble Baroness is correct: what has now been renamed the Supporting Families programme has been successful at supporting families with some of the most complex needs. It has shown that they can avoid the need for further statutory services and for some of their children to go into care

[Baroness Berridge]
or the criminal justice system, as a result. There are various cross-government issues which are dealt with and led partly by the Secretary of State for Education, such as the care leavers board, which he chairs jointly with the Chancellor of the Duchy of Lancaster.

Baroness Tyler of Enfield (LD) [V]: My Lords, I refer to my interests in the register. Given that the adversarial nature of the family law courts is unhelpful in many cases, and that separating couples often need much earlier help addressing emotional distress and practical issues to encourage effective co-parenting after separation, as well as ensuring that children's needs remain centre stage, could the Minister say what steps the Government are taking to ensure a closer link with, and easier access to, relationship support in the family justice system?

Baroness Berridge (Con): My Lords, as I have outlined, the family justice system currently has a review into these matters, looking at a potentially more investigative approach to family justice. We also hope that the family hubs will give local authorities the option to bring together not just statutory services but the charitable and voluntary sector, which often provides support in the circumstances that the noble Baroness outlines.

Baroness Altmann (Con): I commend the Government on their Supporting Families programme. Could my noble friend tell the House what is being done to help families whose children have missed out on education during the pandemic to catch up, and whether the Government would consider building grandparents into family policy, as wider families can often help with dysfunctionality?

Baroness Berridge (Con): My Lords, the catch-up in the education section of building back after the pandemic is focused on children catching up their education, but particularly disadvantaged children. On many occasions, noble Lords have asked about the laptops that they have received, and a specific element, £302 million, is a Covid catch-up premium built on the pupil premium. She is right that, in considering family policy, we changed the coronavirus regulations to recognise informal childcare support bubbles, where grandparents and others are giving support.

Baroness D'Souza (CB) [V]: My Lords, during a debate on family food banks earlier today, a local government spokesperson said that the priority seems to be just getting the money out of the door and bemoaned the lack of consistency and equal standards across the country. Does the Minister agree that budgets could be immeasurably more cost-effective, if administered and monitored by a senior-level Minister, with the department able to provide guidance on, and fair distribution of, the available government funds?

Baroness Berridge (Con): My Lords, getting the money out the door is very important, but I take the point that the noble Baroness makes. As the Minister responsible for the efficiency and commercial function of the department, we rely on and give grants to local authorities. We then trust them on the ground. For instance, we have given an additional £40 million to the Covid-19 Support Fund. However, when it comes to contracting with providers, there are procurement processes and contract monitoring, which is an increasingly professional function of the department.

Lord Watson of Invergowrie (Lab): My Lords, until January 2018, there was a Minister of State for Children and Families with the right to attend Cabinet. The post was then downgraded to Parliamentary Under-Secretary of State, which does not give the current holder the necessary clout either to be heard or to be properly effective. Many parliamentarians have today added their names to a letter from UNICEF UK to the Prime Minister, calling for the reinstatement of the Minister for Children and Families with the right to attend Cabinet, and urging him to deliver a national address directed to children and families to set out his vision of what building back Britain means for them. Does the Minister support these suggestions?

Baroness Berridge (Con): My Lords, the current Minister for Children and Families, the right honourable Vicky Ford MP, works across government on many issues—for instance, online harms, at the moment, and the issues that have been raised by Everyone's Invited. The independent Children's Commissioner today launched her Big Ask to talk to children about their experiences. The group that the noble Lord outlined will get a reply from the Prime Minister, but it is beyond my pay grade to comment further.

Lord Addington (LD): My Lords, does the Minister agree that there is a degree of confusion about who takes the lead in various family issues? What decisions will be made about which departments lead on certain problems? For instance, if it is finance, will the Department for Education or the DWP lead? What is the process by which that decision is made?

Baroness Berridge (Con): My Lords, decisions are made on an issue-by-issue basis. As I outlined in terms of care leavers, the dual chairmanship of that is clear. It is important there is also a degree of flexibility so that, as issues arise, a responsible Government are able to work across departments. For instance, the Home Office, DCMS and the Department for Education have been meeting in regard to safeguarding in schools. I have a meeting with the Home Office on violence against women and girls this afternoon.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. We therefore go on to the second Oral Question.

Nuclear Energy: Hydrogen Production Targets

Question

1.21 pm

Asked by ***Lord Ravensdale***

To ask Her Majesty's Government what assessment they have made of the role of nuclear energy in meeting the United Kingdom's hydrogen production targets.

Lord Ravensdale (CB): My Lords, in begging leave to ask the Question standing in my name on the Order Paper, I declare my interests as in the register.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, the energy White Paper acknowledges the important role that both nuclear energy and hydrogen can have in meeting our climate targets. I am aware of industry proposals showing how current nuclear technologies could play a role in hydrogen production during the 2020s, while small and advanced modular reactors could unlock further efficiencies in future hydrogen production. We will say more on the role of hydrogen production technologies, including nuclear, in our forthcoming UK hydrogen strategy.

Lord Ravensdale (CB): I thank the Minister for that Answer. Nuclear is a low-carbon, always-on source of power that has the power to economically produce green hydrogen at scale, complementing offshore wind. Will the Minister agree to liaise with the Department for Transport to ensure that nuclear energy is added to the renewable transport fuel obligation following the consultation? This is a great opportunity to create demand and get green hydrogen production moving. Can she also assure the House that nuclear will play a role in her department's forthcoming hydrogen strategy?

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, the noble Lord, Lord Ravensdale, makes a very good point. The RTFO was created specifically to address the transport element of the EU renewable energy directive, but to be eligible hydrogen had to be produced from renewable energy. This year we are consulting on preferred long-term sustainable business models and the revenue mechanism to stimulate private investment into new low-carbon hydrogen projects. The UK will take a science-based approach to this whole area of taxonomy. I am sure the noble Lord will have seen the recent leaked report from the EU, which concluded that nuclear is actually no more harmful than any other technology, so we will watch this space.

Lord Empey (UUP) [V]: My Lords, given the strategic and economic significance of hydrogen to the future of the UK economy and climate change, does the Minister believe there are sufficient safeguards in place to ensure that interruption to supplies can be prevented and emerging technical solutions can be protected from any foreign Government who might operate or acquire nuclear facilities in the UK?

Baroness Bloomfield of Hinton Waldrist (Con): The noble Lord, Lord Empey, makes a very good point—particularly as the National Security and Investment Bill is proceeding through the House this week. I assure him that the UK has a robust safety and security regime. Any nuclear reactor operating in the UK now or in the future will be subject to those safety and security regulations.

Baroness Neville-Jones (Con) [V]: My Lords, there is clearly a huge opportunity for hydrogen to help us achieve our net zero ambitions and create quality jobs across the UK. I note that the global hydrogen race is really heating up. I hope the Minister will agree that, with the UK having done distinguished science in the field, we must not allow others to walk away with the prize of commercial exploitation, as has happened too often in the past. We must benefit from our own scientific activities; I hope we do. Does the Minister agree that, as others have mentioned, in view of the importance of nuclear in this area and as the UK has operational nuclear sites and great expertise, we should start with this now to drive forward green hydrogen production with innovative schemes, such the one associated with the Freeport East Hydrogen Hub? That should be at the forefront of our efforts.

Baroness Bloomfield of Hinton Waldrist (Con): I entirely agree with the noble Baroness as we have a world-leading position in the production of both green and blue hydrogen. I also welcome the Freeport East Hydrogen Hub. In an ideal world we would see Sizewell C being built by workers transported on hydrogen buses made by Wrightbus. We would see all the heavy loading gear at the ports driven by hydrogen-powered cranes and JCB diggers, which have been adapted for hydrogen.

Lord Broers (CB) [V]: My Lords, I ask the Minister: how much support is being given to the development of high-temperature gas-cooled reactors—HTGRs—to produce hydrogen? All forms of nuclear reactors can be used to generate hydrogen—I strongly support the proposals for Sizewell B and C—but the high-temperature capabilities of HGTRs make them especially suitable for producing hydrogen because they enable the relatively efficient hydrogen reforming and closed-cycle thermochemical processes for hydrogen production.

Baroness Bloomfield of Hinton Waldrist (Con): The noble Lord is entirely right: the HGTRs are a very promising AMR technology which the Government have supported with £30 million for feasibility and development of AMR designs and the £170 million committed in the 10-point plan. I am delighted that the National Nuclear Laboratory and the Japan Atomic Energy Agency have been working together on this project and produced a report last October calling for increased collaboration on their technical agreements.

Viscount Hanworth (Lab): The energy density of ammonia, which combines one atom of nitrogen with three of hydrogen, exceeds that of hydrogen. This makes it a useful vector of energy. Its use in land transport is inhibited by its messiness and toxicity; nevertheless, it represents an ideal fuel for shipping. It can also be produced cheaply and efficiently by allying the Haber process with a nuclear reactor. Are the Government mindful of such opportunities and, if so, do they propose to pursue them?

Baroness Bloomfield of Hinton Waldrist (Con): The Government are mindful of such opportunities and ammonia represents good potential as an energy storage medium. BEIS has supported ammonia-related innovation projects under our £33 million hydrogen supply competition. Between BEIS and the Department for Transport, we are dealing directly with a clean maritime plan setting out both hydrogen and ammonia, which are expected to play a significant role in decarbonising the maritime sector.

The Lord Speaker (Lord Fowler): My Lords, can we keep questions short please?

Lord Teverson (LD) [V]: My Lords, I draw attention to my interests in Aldustria Ltd. Surely to use an extremely expensive form of energy such as nuclear power to produce another form of energy such as hydrogen, with all the efficiency losses that that entails, cannot make sense. With the Prime Minister's call for a massive increase in offshore renewables, surely what we need now is not more baseload energy but counter variable, flexible sources such as interconnectors, demand response and energy storage.

Baroness Bloomfield of Hinton Waldrist (Con): I certainly do not agree with the premise of the noble Lord's question. Sizewell C will use only 35% of its heat, with the rest being discharged into the sea. If we can use that excess heat to produce blue hydrogen, that has to be a very good factor in achieving net zero by 2050.

The Earl of Shrewsbury (Con): My Lords, countries across the world are investing billions of pounds into kickstarting their hydrogen economies. We have the ingredients in this country ready to go: great offshore wind capabilities and a highly skilled nuclear industry. This country also manufactures a lot of hydrogen equipment, from electrolysers to boilers and buses. Does my noble friend therefore agree that we should do everything possible now to use the UK's nuclear energy resources to get our hydrogen economy going and thus ensure as many hydrogen jobs as possible are created in the UK?

Baroness Bloomfield of Hinton Waldrist (Con): Of course I agree with my noble friend. The UK's 5 gigawatt production ambition could support up to 8,000 jobs and £0.7 billion gross value added by 2030. This puts us on a pathway to up to 100,000 jobs and £12 billion of GVA by 2050 under a high hydrogen scenario.

Lord Grantchester (Lab) [V]: It is clear that there is a role for hydrogen in the UK's future energy mix and that nuclear has the potential for cogeneration, producing electricity and heat together. It is also clear that the Government are actively favouring the production of blue hydrogen—an option reliant on fossil fuels. Can the Minister confirm whether the Government will commit to using a net-zero hydrogen fund to prioritise the production of green hydrogen and encourage the participation of the nuclear industry in the Hydrogen Advisory Council?

Baroness Bloomfield of Hinton Waldrist (Con): I disagree that we are actively encouraging the production of blue hydrogen; we are in a position to do so only because of the length of time that it will take to get AMR and new nuclear technology on stream to help us with the production of green hydrogen. The Government are following the twin-track approach, supporting both electrolytic green hydrogen and CCUS-enabled blue low-carbon hydrogen production in the meantime. We keep the membership of the Hydrogen Advisory Council under review at all times.

Baroness Meacher (CB): My Lords, the Government have pledged to increase low-carbon hydrogen production capacity to five gigawatts by 2030. Have the necessary investment commitments been made to achieve that objective, and what role will hydrogen produced through nuclear energy play in helping to hit that target?

Baroness Bloomfield of Hinton Waldrist (Con): Investment was a point made very powerfully by Bill Gates in his new book. We recognise the importance of ambition and a supportive policy framework in building investor confidence in the development of low-carbon technologies in the UK. The Government's dedicated hydrogen strategy, which will be published in the second quarter of this year, will have more detail on how we work with industry to meet the 2030 ambition, but it will also incorporate a "minded to" paper—that is Civil Service speak—on ways that we could finance these large projects.

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

Immigration: Skilled Migrants from Commonwealth Countries

Question

1.32 pm

Asked by ***Lord Woolley of Woodford***

To ask Her Majesty's Government what assessment they have made of reports that highly skilled migrants from Commonwealth countries who have lived in the United Kingdom for 10 or more years have been refused indefinite leave to remain.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, we do not believe that highly skilled migrants who came to the UK using the tier 1 general visa route have been incorrectly refused indefinite leave to remain. There have been many cases of applicants appearing to deliberately misrepresent their earnings to qualify for leave to remain. We are giving applicants opportunities to respond to these concerns, and each case is being considered on its merits.

Lord Woolley of Woodford (CB) [V]: My Lords, my understanding of the Home Office data, supported by the Migrants' Rights Network, shows that all highly skilled migrants who have been refused indefinite leave to remain are non-white and from six Commonwealth countries in south Asia and Africa. Given that the Institute for Fiscal Studies showed that 60% of all online self-assessment tax returns have discrepancies—the main reason for their refusal—can the Minister explain this worrying racial disparity, particularly coming after the Windrush review?

Baroness Williams of Trafford (Con): My Lords, I absolutely refute that this has anything to do with the Windrush generation. The noble Lord points out that a large proportion of the refusals were given to non-white people; the countries represented have populations

that would normally be non-white—that is the link there. People falsified earnings: quite often, amendments were made to tax returns over three years after the original returns and often less than six months before making the ILR application.

Baroness Verma (Con) [V]: My Lords, will my noble friend also look into the fact that there will be many skilled migrant workers who, because of Covid, will also have lost their current regular income, which may impact on their applications to stay? Following on from the question of the noble Lord, Lord Woolley, would she look a little deeper into the fact that a number—indeed, all—of those who have been refused are people of colour?

Baroness Williams of Trafford (Con): My Lords, as I explained to the noble Lord, Lord Woolley, the fact that these are people of colour probably reflects the countries the applications came from. There were some fairly appalling practices with these applications, as I have outlined—and where ILR had been granted, we saw cases of applicants subsequently amending their tax records back down again not to have to pay additional tax. I totally get my noble friend's point, but we need to see these cases in perspective.

Viscount Waverley (CB): My Lords, I believe that the noble Baroness's response is in order. However, circumstances exist that border on the inhumane and run counter to the spirit of the Commonwealth, and indeed elsewhere. If the Government can be considerate to Hong Kongers, would they consider a one-time amnesty to all those thus impacted, through no fault of their own, thereby doing the right thing in the right way?

Baroness Williams of Trafford (Con): Absolutely—we have humanitarian routes, which are used. The noble Lord talked about BNOs, and he is absolutely right: the people of Hong Kong are coming here legally—we have granted them leave to remain under the BNO route. Far from being inhumane, this country has a proud record of giving refuge to people who need it.

Lord McConnell of Glenscorrodale (Lab): My Lords, on that point, there has been and continues to be a particular problem of young people and teenagers, who have spent a considerable number of years in this country, sometimes—through no fault of their own but because of the bureaucracy of the system, the decision-making and so on—finding themselves threatened with a return to the country of their parents' or their birth, despite having spent a number of years in this country, attending school here and experiencing the growing-up process here. Is that really a humane reaction, and is there a better way that the Government could handle these cases?

Baroness Williams of Trafford (Con): I totally get the point that the noble Lord is making about some of the humanitarian considerations that we should give to people who grew up in this country, but this is a very different issue. The cases we are talking about this afternoon are of people who falsified their earnings, claiming back tax on them in some instances, as I have said. It is absolutely right that we are not only tolerant and welcoming but that we stamp out fraud where we see it—and these cases were of fraudulently declared earnings.

Baroness Hussein-Ece (LD) [V]: My Lords, I refer to the Minister for Future Borders and Immigration's recent statement that highly skilled migrants should not face destitution or have their right to work refused while their case is being decided. In reality, nearly half are still experiencing destitution, and 55% have no right to work. What actions will the Government take to honour this, and will they consider compensation for the approximately 80% of the 1,697 cases of individuals who were later found not to have been dishonest in their tax discrepancies?

Baroness Williams of Trafford (Con): Of the nearly 1,700 refusals, 88% had differences of more than £10,000, and the average difference across all cases was £27,600, so they were not small differences. On people facing destitution, of course people will be cared for while their applications are being considered. Of course, particularly during the Covid pandemic over the past year, it has been very important to be able to give people that bit of respite because of the difficulties that they will face, first, coming here and, secondly, going back, if their applications are refused.

Lord Rosser (Lab) [V]: My Lords, it is rather a serious step to refuse people indefinite leave to remain who have been in this country for 10 years or more. The Minister referred to the non-criminal historic tax discrepancies, which are the cause of the trouble. Will she tell us how long ago these tax discrepancies occurred, on the basis of which indefinite leave to remain is being denied? Have they been recent cases or ones of some 10 years ago? Can she assure me that the statements that the Government are now making from the Dispatch Box have been checked by Ministers to ensure that they are accurate and that these people really are being denied indefinite leave to remain for good, strong reasons?

Baroness Williams of Trafford (Con): My Lords, most applications for settlement were made around 2016. Some of them go back some years. The reason why they were uncovered was because of the sheer volume that HMRC was noticing as a strange pattern of behaviour. It was sufficiently unusual to draw it to the attention of the Home Office. This is not an attempt to deny ILR—this was a deliberate attempt on the applicants' part to falsify records so that they matched the self-employed earnings previously declared in tier 1 applications.

Lord Cormack (Con): My Lords, I listened very carefully to what my noble friend has said. Is she absolutely convinced that these applications have been handled not only efficiently but sensitively, bearing in mind that we really owe a great deal to those who have provided wonderful services in our country for many years? We would all be extremely concerned if some fell through an imperfect net.

Baroness Williams of Trafford (Con): My Lords, I would share my noble friend's concern if people were to fall through an imperfect net. We must not conflate them with the Windrush generation, who were genuinely and rightfully here and to whom we owe a debt of gratitude. The people we are talking about have falsified earnings in order to come to this country.

The Lord Speaker (Lord Fowler): My Lords, I regret that the time allowed for this Question has elapsed. *[Interruption.* Excuse me—Members should not leave when I am standing up.

Planning: Net Zero Emissions Targets

Question

1.42 pm

Asked by ***Baroness Sheehan***

To ask Her Majesty's Government whether they plan to revise planning rules to ensure that all planning decisions are aligned with the United Kingdom's net zero emissions targets.

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): My Lords, our *Planning for the Future* White Paper committed the Government to ensuring that the reformed planning system will support our efforts to combat climate change and help bring greenhouse gas emissions to net zero by 2050. We are currently analysing the 40,000 responses to the consultation; we will publish a response later in the year, which will set out our decisions on the proposed way forward.

Baroness Sheehan (LD): My Lords, the energy national policy statements are currently under review; they were due to be completed in October last year. When, more precisely, can we expect the completion of the review? Will the Government commit to not granting permission for new fossil fuel projects, such as the controversial Cumbrian coal mine, or any other major infrastructure projects, until the review is complete?

Lord Greenhalgh (Con): My Lords, I will not be able to comment on a specific planning application for obvious reasons; that particular scheme has been called in by the Secretary of State. I will have to write to the noble Baroness on when the review will be published.

Lord Whitty (Lab) [V]: My Lords, the construction sector, demolition and building use together account for about 40% of all carbon-equivalent emissions. Should not planning law and planning guidance require developers, planning authorities and, ultimately, the inspectorate, in all cases of major housing and office projects, to consider as first option retrofit and refurbishment to higher energy efficiency standards rather than, as is normally the case, opting for carbon-intensive demolition and rebuild?

Lord Greenhalgh (Con): My Lords, the Government recognise the benefits of retrofit ahead of demolition. Reuse and adaption of existing buildings can make an important contribution toward tackling climate change. The national planning policy framework already encourages this.

Baroness Thornhill (LD): My Lords, core to this issue is the forthcoming future home standard, which currently threatens to remove the discretion of local authorities to set zero-carbon policies that go beyond current building regulations. Does the Minister agree that the future home standard should be a floor to those authorities struggling to keep up rather than a ceiling constraining what the most ambitious authorities quite rightly are doing to reduce carbon dioxide emissions from new development and lead the way for other councils?

Lord Greenhalgh (Con): My Lords, it is quite clear that the future home standard is there to provide a floor rather than a ceiling in respect of ambition for local authorities. The Government will set standards that will require the avoidance of fossil fuels in future homes.

The Earl of Caithness (Con) [V]: My Lords, following the question from the noble Lord, Lord Whitty, will the Minister be more specific with local authorities? They are much keener to allow a new building to replace an old building because it usually means more floor space and they will get some benefit from it. I hope that the Minister will press them very hard to consider retrofit before giving permission for a new building.

Lord Greenhalgh (Con): My Lords, we recognise the importance of encouraging retrofit. That is why, as part of the *Planning for the Future* reforms, we are looking at making it easier to support changes of use and improvements to existing buildings.

Lord Best (CB) [V]: My Lords, as the Minister knows, there are two ways of getting housebuilders and developers to achieve higher standards: the national building regulations and the local planning requirements. Is the noble Lord's Ministry looking at how these sometimes conflicting approaches could be harmonised and how the weak enforcement of local planning requirements could be better resourced to prevent housebuilders evading their responsibilities?

Lord Greenhalgh (Con): My Lords, we recognise the interdigitation between the national standards and other forms of regulation. That is why we started with the implementation of an interim 2021 Part L uplift for new homes as swiftly as possible, in advance of the 2025 new home standards. We are working closely with local government to ensure that consistency.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I refer the House to my relevant interests as set out in the register. One problem is the timidity of the Government's actions. When they had the chance to do something about this during the passage of the dreaded Housing and Planning Act 2016, the Government voted against the amendments proposed by the noble Lord, Lord Krebs, in this House and opposed them again on ping-pong. I refer the Minister to the remarks

of the noble Viscount, Lord Younger of Leckie, at the time. Can the Minister reassure us that the Government are finally serious in this matter?

Lord Greenhalgh (Con): We are very serious about the move to a net zero economy and using planning as a vehicle to do that. Further announcements will have to await the review of the consultation that is currently being processed.

Baroness Scott of Needham Market [V]: My Lords, if the Government are as serious as the Minister suggests, would it not be a good idea to review all national policy statements including, for example, on aviation, to try to make sure that all these large infrastructure decisions are made with net zero in mind? That would also give business some certainty, rather than the current situation where major developments are called in and delayed.

Lord Greenhalgh (Con): My Lords, national planning policy statements are a matter for the relevant Secretary of State, but I would point out that Project Speed is at the moment reviewing national infrastructure planning reform and ensuring that we build projects faster, better and, of course, greener.

Baroness Jones of Moulsecoomb (GP): My Lords, it is obvious to me from my own experience as a councillor, and from speaking to planning experts and local planning inspectorates, that they just do not have good enough, strong enough guidance from the Government. I accept what the Minister says about the review but, quite honestly, writing better information for planning inspectorates is vital. We are going to be very embarrassed at COP 26 if we do not get to grips with this.

Lord Greenhalgh (Con): My Lords, we believe that the current National Planning Policy Framework is clear on how planning plays an important part, but we will look to ensure that the guidance is optimised for our planning inspectors, who play an important role in ensuring that we reach the net-zero economy that we all want.

Lord Vaizey of Didcot (Con): My Lords, with the news last week that Germany has reached a tipping point in the sale of electric vehicles, is it not now possible to use planning policy to make a step change and ensure that all new developments include superfast broadband, solar panels and electric vehicle charging points?

Lord Greenhalgh (Con): My Lords, we are moving ahead with the future homes standard. I am sure that this takes into account the points that my noble friend raised and that we will be ready, in 2025, with standards that will drive the net-zero objective.

Lord Krebs (CB) [V]: My Lords, does the Minister agree that planning approval for new rail infrastructure should be contingent on the plan including a decarbonisation strategy, in line with the advice of both the Committee on Climate Change and the National Infrastructure Commission?

Lord Greenhalgh (Con): My Lords, the question relates to transport, which is not my area of expertise. However, we have published the first phase of the national decarbonisation plan for transport. I am sure that the policy experts will be looking into that, as will my colleagues in the DfT.

Lord Browne of Ladyton (Lab) [V]: My Lords, the Government's policy of incentivising a housebuilding boom could contradict their net-zero ambitions. Some time ago, the Committee on Climate Change recommended that the Government develop policies to minimise the whole-life carbon impact of new buildings. What progress has been made in this area? How would the Minister describe how the Government envisage the role for the planning system, permitted development and building regulations in delivering a sustainable built environment?

Lord Greenhalgh (Con): My Lords, we believe that it is possible to build homes, to grow our economy and also to decarbonise. As a nation, we have decarbonised our economy faster than any other G20 country. Our economy has grown some 78% while decreasing emissions by 44%. We have a clear set of planning policies to encourage further decarbonisation. Central to that is the future homes standard, which will be in effect from 2025.

The Lord Speaker (Lord Fowler): My Lords, all supplementary questions have been asked. I congratulate the Minister, and all those involved, on that outcome. That brings us to the end of Question Time.

1.53 pm

Sitting suspended.

Arrangement of business

Announcement

2 pm

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

Hong Kong: Pro-Democracy Campaigners

Private Notice Question

2 pm

Asked by ***Baroness Kennedy of The Shaws***

To ask Her Majesty's Government what assessment they have made of reports that pro-democracy campaigners have been sentenced in Hong Kong for participating in pro-democracy protests.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, we are clear that the Hong Kong authorities' decision to target leading pro-democracy figures for prosecution is unacceptable and must stop. The right to peaceful protest is fundamental to Hong Kong's way of life, protected in both the joint declaration and the Basic Law, and it should be upheld. We shall continue to raise our concerns with the Chinese and

[Lord Ahmad of Wimbledon]
Hong Kong Governments and bring together our international partners to stand up for the people of Hong Kong.

Baroness Kennedy of The Shaws (Lab) [V]: My Lords, I thank the Minister for his continued efforts in this regard, but is he aware of the letter sent last week by the last Governor of Hong Kong, the noble Lord, Lord Patten, and signed by 100 parliamentarians from both Houses, including the shadow Foreign Secretary Lisa Nandy and myself? We urged the Government to impose Magnitsky sanctions on officials in Beijing and Hong Kong for the grave and repeated breaches of the Sino-British joint declaration and the serious human rights violations committed in Hong Kong. In the light of the sentencing of some of the most prominent moderate, mainstream, internationally respected and senior pro-democracy campaigners, is it not time to impose Magnitsky sanctions?

Lord Ahmad of Wimbledon (Con): My Lords, I agree with the noble Baroness on the issue of the increasing number of convictions. At the end of last week, further action was taken by the Hong Kong authorities against people who are simply calling on their rights to protest and to democracy. The noble Baroness knows what I will say about speculation on future Magnitsky sanctions, but, as we have demonstrated in the case of Xinjiang, we have acted, and when we have we have done so in co-ordination with our partners.

Baroness Northover (LD): My Lords, these are friends and allies who have been locked up, people we all know. The Foreign Secretary has stated that Beijing is now in permanent breach of the Sino-British joint declaration, so I urge the Government to stop holding back on imposing sanctions. Will the Minister assure us that the human rights crisis in Hong Kong will be on the G7 agenda so that collective action can be taken?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Baroness will already have noted the co-ordination we have shown with our G7 partners and the support we have gained from them on the situation in Hong Kong. Although the agenda is still being finalised for the leaders' meeting, I am sure the situations in China and Hong Kong will be very much a part of the considerations. As for taking action against those in Hong Kong, we keep the situation under review, as I have said, but I cannot go further than that.

Lord Mackay of Clashfern (Con) [V]: My Lords, apart from admitting residents of Hong Kong to the United Kingdom, what policy can Her Majesty's Government follow to improve the liberties of the citizens of Hong Kong?

Lord Ahmad of Wimbledon (Con): My Lords, my noble and learned friend raises some important points about the people of Hong Kong. As he will have noted, we have taken specific steps to broaden the offer to British nationals overseas and their families. That process is operating well. Of course, if anyone seeks the sanctuary of the United Kingdom because of the persecution they face, we will look at each case individually and provide the support needed. That applies to anyone around the world.

Lord Alton of Liverpool (CB): My Lords, as a patron of Hong Kong Watch and an officer of the All-Party Group on Hong Kong, I personally know Martin Lee, the father of Hong Kong democracy, Margaret Ng, a formidable lawyer, and Jimmy Lai, a champion of free speech and a full holder of a UK passport. Does the Minister agree they deserve better than a medieval star chamber and a Stalinist show trial? Is the debasement of law by puppets and quislings not best met by calling out the Chinese Communist Party at the next meeting of the United Nations Human Rights Council, focusing on, as the noble Baroness, Lady Northover, said, the CCP's lawbreaking and treaty-breaking, and its sentencing, imprisonment and detention in psychiatric institutions of women and men whose values we share?

Lord Ahmad of Wimbledon (Con): My Lords, I agree totally with the noble Lord on the issue of values. That is why, as I am sure he would acknowledge, we have led in statements and in consolidating and increasing support at the Human Rights Council. It is something I have personally been engaged in and will continue to campaign for and make note of. He raised the cases of various individuals. Speaking personally, I saw the final interview Jimmy Lai gave just before his arrest, and it is quite chilling to see the conduct that happened thereafter to someone who stood up for media freedom. What has he been arrested for? It is for illegal assembly. We need to put this into context as well.

Baroness Warwick of Undercliffe (Lab) [V]: My Lords, I reinforce the points made by my noble friend Lady Kennedy of The Shaws on Magnitsky sanctions. The Chinese Government recently criticised the UK for granting asylum to the Hong Kong pro-democracy activist Nathan Law. Does the Minister agree that a fitting way to rebut Beijing's growing crackdown in Hong Kong would be for the Government to allow young Hong Kongers, who do not qualify for the BNO visa, to come to the UK to study and work?

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Baroness's first point on asylum, as I said, I am proud that the United Kingdom continues to be a sanctuary for those seeking protection from persecution internationally, as it has been over the years. On her broader point, the BNO scheme has been introduced; it is working well. There are no other plans, but we continue to press the Hong Kong authorities to restore democratic rights and the right to protest within Hong Kong.

Baroness Smith of Newnham (LD): My Lords, following on from the noble Baroness's question, I will press the Minister a bit further and ask whether the Government will go away and think again about the rights of young Hong Kongers. Would it be possible to pave the way for those who were too young to have been eligible for the BNO passport scheme to have access to jobs and education here?

Lord Ahmad of Wimbledon (Con): My Lords, there is no more I can add to what I have already said, but I assure the noble Baroness that the plight of everyone in Hong Kong, including the young generation, is at the forefront of our work and the actions we have taken in partnership with other countries.

Lord Garnier (Con): My Lords, while I appreciate that shouting from the sidelines will not have any effect at all on the Government of China, will the Minister accept that these latest convictions and sentences exemplify the repression of human rights and the rule of law in Hong Kong? What practical and effective steps can we in the United Kingdom take, both alone and with our allies, to ensure that the position for the people of Hong Kong is improved?

Lord Ahmad of Wimbledon (Con): My Lords, I agree with my noble and learned friend. Freedom and human rights, including the right to protest, continue to be suppressed in Hong Kong. On the further actions we can take, I believe it resonates with the Chinese authorities when we act in concert with our key partners, not least because they respond accordingly to the statements being made. While the impact of those actions might for the medium to long term, they are noticed not just in Hong Kong but in Beijing.

The Lord Bishop of St Albans [V]: Will the Minister tell us what assessment the Government have made of the ability of BNO applicants to safely leave the territory, after it has emerged that the Government of Hong Kong have asked some foreign Governments not to accept BNO for working holiday visas in Europe, North America and parts of Asia?

Lord Ahmad of Wimbledon (Con): My Lords, I assure the right reverend Prelate that we are looking very closely at the operation of the BNO scheme. No apparent issues have arisen. Many BNO holders also have dual passports so their ability to travel is not limited. We continue to monitor the scheme very closely.

Lord Green of Deddington (CB) [V]: My Lords, what is the Government's assessment of the impact of these sentences on applications for their BNO scheme? They have already announced 27,000 applications in the first month but according to the small print this does not include dependants. Meanwhile, more than 300 BNO passports were issued last year, and even today we have had some noble Baronesses calling for the scheme to be expanded from 5 million to 7 million people. If, in fact, numbers run very high, will the Government seek to reduce immigration from elsewhere?

Lord Ahmad of Wimbledon (Con): My Lords, the importance of the BNO scheme is to provide access—and indeed the rights of settlement—to those who qualify. That is a principled decision from the Government and we will stand by it. On the issue of immigration, while it goes into the realms of the Home Office, we have a specific immigration policy which is now operational.

Lord Collins of Highbury (Lab): My Lords, the Minister repeats that we should act in partnership with our allies. I reminded him last week that the United States sanctioned Hong Kong officials for these breaches four weeks ago. It is now five weeks. When will we act in concert with our partners? When will we support the United States on something that is our responsibility? We should act now.

Lord Ahmad of Wimbledon (Con): My Lords, I note and of course accept that the noble Lord has raised this issue on a number of occasions. However, as I have said in answer to other questions, I cannot speculate on future sanctions. I assure him, and indeed all noble Lords, that we work very closely with our partners: the European Union, Australia, the United States and others.

Lord Cormack (Con): My Lords, much as I sympathise with my noble friend and appreciate the limitations of his personal power and influence, it is appalling when an international treaty—to which we and Hong Kong are joint parties—is violated by one party. We appear to be dragging our feet and it really is important that we have action this day.

Lord Ahmad of Wimbledon (Con): My Lords, while appreciating my noble friend's sympathy for my position, I assure him that I have been persistent in my capacity as a Minister within FCDO and particularly in my responsibilities as Human Rights Minister to ensure that we do everything possible, in terms of both direct action and action with international partners. We continue to lead the international community. We have made statements through the Human Rights Council and the G7 and will continue to do so. On the wider policy of specific sanctions, I have already indicated our current position, but we keep that position under review.

Lord Dubs (Lab) [V]: Many of us who were able to visit Hong Kong in the past and were privileged to meet Martin Lee, Margaret Ng and other pro-democracy campaigners will recall that we were warned by them that this might happen and that we should not trust the Chinese Government to support democracy. Given the breach of agreements that the Chinese Government have gone in for, is it not time that this country rethought our whole relationship with China, not just on this one issue but on a whole range of issues? We cannot go on treating China as a normal country when it breaches international agreements in the way it has done.

Lord Ahmad of Wimbledon (Con): My Lords, I totally agree on the breach of international agreements. Indeed, the Sino-British joint declaration and China's continued non-compliance has repeatedly been called out by the UK. As I have said before from the Dispatch Box, it is an agreement that has international recognition and China, as a major player on the international stage, should uphold its responsibilities. On the wider issue of China and its role in the world, as I have also repeatedly said, it has a role to play on climate change and, in that regard, without the Chinese the ambitions and the actions required cannot be reached and realised.

[Lord Ahmad of Wimbledon]
However, we will not hold back from calling out egregious abuse of human rights as we have done in both Hong Kong and Xinjiang.

Lord Singh of Wimbledon (CB) [V]: My Lords, while we all condemn the incarceration of democratic activists in Hong Kong, there is very little we can do to help them. Economic or cultural sanctions can be only a token of disapproval. Does the Minister agree that it would add weight to our criticism if we were more even-handed in criticising gross human rights abuse wherever it occurs, even in so-called friendly countries, such as Saudi Arabia?

Lord Ahmad of Wimbledon (Con): My Lords, we consistently call out human rights abuses. It was this Government who introduced the global human rights sanctions—the Magnitsky sanctions regime—and this Government who have acted accordingly. Well over 70 designations have now been made for egregious abuse of human rights. The noble Lord rightly points to the situation with the Kingdom of Saudi Arabia as a partner, but even there we have specifically sanctioned individuals under that regime.

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

Nuclear Safeguards (Fissionable Material and Relevant International Agreements) (EU Exit) (Amendment) Regulations 2021

Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021

Common Organisation of the Markets in Agricultural Products (Wine) (Amendment, etc.) Regulations 2021

Plant Health etc. (Fees) (England) (Amendment) Regulations 2021

Motions to Approve

2.16 pm

Moved by ***Baroness Bloomfield of Hinton Waldrist***

That the draft Regulations laid before the House on 25 February, 8 March, 10 March and 11 March be approved.

Relevant document: 50th Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 15 April.

Motions agreed.

University Students: Compensation for Lost Teaching and Rent

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Thursday 15 April.

"This Government recognise just how difficult the past year has been for students. Since the arrival of new and highly transmissible variants, we have had to adopt a cautious approach, in line with the wider restrictions. In January, we enabled only students on critical key worker courses to return, and from 8 March we allowed practical and creative students to resume face-to-face teaching. This week, we have announced that the final tranche of students will be able to return on 17 May, subject to step 3 of the road map. This decision was made, as promised, following a review during the Easter holidays. I understand the frustrations of students and parents; the pandemic has disproportionately impacted our young. That is one of the key reasons why we have worked with universities to ensure that education carried on throughout and that students can graduate on time.

Many things are indeed opening up in step 2, but most are outside and social mixing remains focused outside, and they do not involve the formation of new households. We know that, inside, the risk of transmission increases with the number of people mixing and the length of time they are together, which is why we are being cautious until stage 3.

The Office for National Statistics estimates that 23% of students are yet to return to their term-time accommodation, which still leaves up to 500,000 students yet to travel. Throughout the pandemic, the Scientific Advisory Group for Emergencies has warned of the risk posed by the mass movement of students, especially given that they form new households.

At the heart of our decision was public health, but also student well-being. The last thing any of us wants is for students to have to repeatedly self-isolate, as some did last autumn. That would not only have been damaging to their mental health and wellbeing, but would have risked the ability to graduate of some students studying creative and practical subjects.

This decision was taken not in isolation, but as part of the Government's overall road map to reopening. Every relaxation—even those with a low impact and low risk—will have an impact, so we have to judge the impact of these relaxations cumulatively to ensure that the road map is irreversible.

The Government do recognise the financial pressures the pandemic has placed on students in the financial sense, including accommodation costs. That is why, this week, we have announced an additional £15 million, on top of the £70 million since last December and the £256 million of taxpayer funding that we enabled universities to access for hardship.

It is important to clarify that the exemptions still apply to students who need to return to their term-time accommodation for mental health reasons or because of a lack of study space. We have asked universities to make their facilities available to all students who are back, to support their mental health and well-being.

I end by assuring the House that I will continue to work closely with universities so that, together, we can support students, and especially those who will graduate this year."

2.17 pm

Lord Bassam of Brighton (Lab) [V]: My Lords, the disruption to university students caused by the pandemic and subsequent government restrictions has meant that students have not enjoyed the university experience that they would have expected, ranging from teaching, lectures and seminars, access to specialist resources and facilities, and career-enhancing placements, as well as the social experience which forms an important part of university life. Indeed, many final-year students have been advised that they will not even be able to attend a graduation ceremony.

Universities report that anxieties are mounting among students, who feel underprepared for their final exams after more than 12 months of major disruption. Following the delayed government announcement on returning to campuses, many still do not know whether these exams will take place on campuses or online and their mental health is suffering as a consequence. What discussions have the Government had with universities about mitigation for students sitting their finals this summer, who have suffered disruption to their learning as a result of the pandemic? Will the Government please ensure that in future plans students are not the forgotten ones left to the end?

Lord Parkinson of Whitley Bay (Con): My Lords, the noble Lord sets out powerfully the disruption that students have faced to not only the academic element of their university experience but all the extra-curricular activities and the broader experience. The Government are very mindful of that; my honourable friend the Universities Minister engages directly with students and representative bodies and has set up a higher education task force to engage with the sector. Students and universities are certainly not being forgotten—they are being engaged with fulsomely.

Baroness Garden of Frognal (LD): My Lords, I declare an interest with three grandsons at Glasgow, Southampton and Bath, whose student experience, as the noble Lord, Lord Bassam, said, is a world away from what they were entitled to expect. Why must students wait until 17 May for a return? For many, that will mean missing out until the autumn, with their well-being, tuition and socialising all suffering, when most universities and students are more than ready to return now. Why are the Government so cavalier about our universities and so uncaring about the effect of their prevarications?

Lord Parkinson of Whitley Bay (Con): My Lords, our decisions have been taken with the well-being of students at their heart. Many students will be able to return from 17 May to engage with all the important experiences from that point. We do not want a situation where people return too early and have to self-isolate repeatedly, as has happened before. We are taking a cautious approach to make sure that we can move out of lockdown and recover from Covid.

Lord Sharpe of Epsom (Con): My Lords, many institutions, including your Lordships' House, seem to have adapted rather well to hybrid working. My daughter is in her first year at university, at Royal Holloway, and although she has missed the social life, she says she has actually quite enjoyed the learning experience. Could my noble friend the Minister outline whether the Government have any plans to investigate whether some sort of hybrid model of access to university education, which may offer more flexibility and affordability, could be made available in future?

Lord Parkinson of Whitley Bay (Con): I am glad my noble friend's daughter has been able to enjoy her first year of university, notwithstanding the pandemic. He is right that many institutions have proved very adaptable and innovative in the face of the challenges of Covid-19. The Secretary of State for Education commissioned Sir Michael Barber to undertake a review of the shift towards digital teaching and learning, which was published on 25 February. We are considering its implications, particularly its role in supporting flexible provision, and are introducing the lifelong loan entitlement from 2025, which will support modular learning and make it easier for people to study more flexibly over their lifetime.

Lord Bilimoria (CB) [V]: My Lords, what evidence did the Government take and consider when deciding to include student returns in step 3 rather than step 2 of the road map? Professor Galbraith, vice-chancellor of Portsmouth, asked the Government to explain this, calling it "nonsensical" and "unfathomable" and saying that

"many universities will have finished their teaching"

by that time. He said:

> "Students can now buy a book on British history in Waterstones and discuss it with a tattoo artist while they have their body decorated, but they cannot do the same thing in a Covid-secure environment with their university lecturer."

I have seen first-hand, as chancellor of the University of Birmingham, the amount of testing and Covid-safety measures that universities are taking. Other university chancellors, the Russell group and UUK have all called this disrespectful and late. Please could the Minister explain where the data is which shows that teaching spaces are safe, that there are low infection rates and that university students should be allowed to go back to campus? For how much longer will the Government take the university sector—the jewel in the crown of this country—for granted?

Lord Parkinson of Whitley Bay (Con): My Lords, we certainly do not take it for granted. We have outlined a cautious approach which is underpinned by data rather than dates. We worked extremely closely with scientists and SAGE to understand and model various scenarios to inform our plan. We also examined the economic and social data to gain a balanced understanding, which led to our decision. Some things the noble Lord set out, such as tattoo parlours, take place in the same vicinity as people live; the difference here is people travelling to a part of the country in which they do not reside to form new households. That is why it is different and why we have made the decision we have.

Lord Boateng (Lab) [V]: My Lords, I declare my interest as chancellor of the University of Greenwich. Covid has meant additional costs for universities and students; they are out of pocket. Will the Minister assure us that his department will take that into account in future funding decisions for both universities and students, and will he please bear in mind, particularly for those universities either in London or working with particularly disadvantaged students, the additional costs of living and working in London, which KPMG estimates at some 14% additional cost? Will he make sure that those factors are taken into account in university funding, particularly in relation to the current consultation on London weighting?

Lord Parkinson of Whitley Bay (Con): My Lords, we understand the difficulty that students have faced throughout the pandemic, in London and elsewhere. That is why the Government announced last week a further £15 million of student hardship funding, meaning that, in total, we have made an additional £85 million of funding available for student hardship this year, on top of the £256 million of taxpayer-funded student premium funding which is already available to providers in London and more widely to draw on towards student hardship funds for this academic year.

Lord Wharton of Yarm (Con): My Lords, I declare my interest as chair of the Office for Students. Will my noble friend join me in commending those institutions which have offered rent rebates to students after a very difficult year for many and in calling for more to do the same?

Lord Parkinson of Whitley Bay (Con): This is my first opportunity to congratulate my noble friend on his new role; I look forward to his carrying it out with great rigour and independence, as I know he will. We welcome the decision from many universities and accommodation providers to offer rent rebates for students who need to stay away from their term-time address. We urge all large providers to join them and offer students partial refunds. We ask all providers of student accommodation, including universities, to make sure that their rental policies have students' best interests at heart and that they are communicated clearly.

Lord Loomba (CB) [V]: My Lords, prior to the pandemic last year, UK universities and their union demanded the stamping out of casual contracts and job precarity for staff in the higher education sector. As university teaching begins to return to normal in the coming academic year, there are increased calls to reimburse students' tuition fees for lost teaching. Given that academic staff have continued to provide the same amount of labour, if not more, to produce innovative online teaching during this uncertain period, on top of managing disruptions to their personal research, how do the Government plan to protect and provide job security for academic staff going forward?

Lord Parkinson of Whitley Bay (Con): My Lords, university staff have worked brilliantly to minimise the disruption to students throughout the pandemic. Employment and staffing are of course decisions for universities, as autonomous organisations, but, like other businesses, they can avail themselves of the support which Her Majesty's Treasury has made available to businesses during the pandemic.

Baroness Blackstone (Ind Lab): My Lords, I condemn the Government's last-minute decision to deny half a million students the opportunity to get back to their universities and resume face-to-face instruction. In my view, it shows a scandalous lack of judgment about the needs of these students, who have missed out on not just normal learning but the social experience of university. Since large numbers of students have returned anyway, the argument about the formation of new universities in the Answer is utterly unconvincing, especially in the context of data on the very low levels of hospitalisation for Covid. Will the Government compensate these depressed and disappointed students by funding the universities to extend the summer term into July?

Lord Parkinson of Whitley Bay (Con): I must disagree with the noble Baroness. The Office for National Statistics estimates that 23% of students are yet to return to their term-time accommodation, which leaves up to half a million students yet to travel. Throughout the pandemic, the Scientific Advisory Group for Emergencies has warned of the risk posed by mass movements; that is what underpins our cautious approach.

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

2.28 pm

Sitting suspended.

Arrangement of Business

Announcement

2.31 pm

The Deputy Speaker (Lord Haskel) (Lab): My Lords, the Hybrid Sitting of the House will now resume. I request that all Members respect social distancing.

Overseas Operations (Service Personnel and Veterans) Bill

Third Reading

2.31 pm

Relevant documents: 9th Report from the Joint Committee on Human Rights, 30th and 36th Reports from the Delegated Powers Committee

Motion

Moved by ***Baroness Goldie***

That the Bill do now pass.

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, I beg to move that this Bill do now pass, and it is with pleasure that I make that Motion and propose to make a brief speech.

The Government stood on a manifesto commitment to

"introduce new legislation to tackle the vexatious legal claims that undermine our Armed Forces",

and they have delivered on that promise. I have said consistently throughout the passage of the Bill that the principles are sound, the objectives are good and the Bill is necessary. The Government believe that the combination of measures in the Bill provides a better and clearer legal framework for dealing with allegations or claims arising from overseas military operations.

The Bill addresses the issue of unacceptable delays in bringing prosecutions and provides greater certainty to veterans for events which happened in the unique context of overseas operations many years ago. The provisions also require that civil claims arising from overseas operations are brought promptly so that the courts are able to assess them when memories are fresh and evidence is more readily available.

The measures recognise both the challenging and extraordinary—I use that word in its literal sense—circumstances of overseas operations and the adverse effects that they can have on our service personnel. These include being exposed to unexpected or continuous threats or being deployed alongside friends and colleagues who are killed or severely wounded in action.

The Bill delivers on a manifesto commitment to our Armed Forces and veterans. It is based on strong support for the proposals by clear majorities in the other place, and it is for these reasons that this House should support the Bill's Third Reading.

I also thank those of your Lordships across the House who have participated in the various debates. I recognise particularly the contributions of the noble Lords, Lord Tunnicliffe and Lord Dannatt, the noble Baroness, Lady Smith of Newnham, and the noble and learned Lord, Lord Hope. While I may not have been able to acquiesce to all their requests, our meetings have been cordial and their contributions constructive.

The Government have listened very carefully to the views put forward throughout the Bill's progress. However, they do not agree with amendments that undermine rather than strengthen the Bill, are simply not aligned with its aims or would render it incompatible with the United Kingdom's international obligations.

None the less, I have noted and trenchantly relayed the very real concerns so eloquently and robustly expressed by your Lordships, not least by the noble Lord, Lord Robertson of Port Ellen, that by not excluding other serious offences, the Bill risks damaging not only the UK's reputation for upholding international humanitarian and human rights law—including the United Nations convention against torture—but the reputation of our Armed Forces. I am sure that the other place has also heard those deep concerns loudly and clearly.

I also believe that we already offer the highest standards of care and support to our service personnel. I again reaffirm and reassure that the MoD has a long-standing policy that where a serviceperson or veteran faces allegations in relation to incidents arising from his or her duty, they receive full public funding for legal support, as well as welfare and pastoral support, for as long as necessary.

There have been a number of debates on investigations. In addition to requiring prosecutors to give consideration to the public interest in finality, where there has been a relevant previous investigation and no compelling new evidence has become available, we believe that the longstop measures in Part 2 of the Bill will help to reduce the likelihood of investigations being opened many years after operations have ended. Indeed, in the future, the longstops will act as a catalyst for encouraging any civil claims to be brought sooner, and any associated criminal allegations are also therefore likely to be investigated sooner. This reduces the risk of criminal investigations arising many decades later as a result of allegations made in civil claims.

I also remind the House that the review by Sir Richard Henriques into the reporting of allegations and the conduct of investigations on overseas operations is currently in progress. As I have said previously, this work will complement the measures in the Bill, and we should await his recommendations as to whether and what measures may be needed to improve our investigative processes and procedures.

The Bill will shortly move back to the other place for consideration of the amendments proposed by this House. Many of the debates we have had in Committee and on Report have, at times, been emotive. I am sure, however, that all have been born out of our conjoined desire to do the very best we can to support our brave current and former Armed Forces personnel both during and after their operational duties overseas.

In conclusion, I acknowledge and thank profoundly the Bill team led by Damian Parmenter and Jennifer Chamberlain and supported by the Bill manager, Richard Hartell. Their experience, expertise, resilience and patience with an at times crotchety Minister have been invaluable and exemplary. In these comments I embrace—metaphorically, that is—my colleagues: the Advocate-General, my noble and learned friend Lord Stewart, and the Government Whip, my noble friend Lord Younger. I thank them for their steadfast support. I commend the Bill to the House.

Lord Tunnicliffe (Lab) [V]: My Lords, the Bill goes back to the other place with important changes. Throughout the Bill's passage, we have wanted to work with the Government and colleagues across the House to improve it. I thank everybody who has engaged with us, including the Minister—the noble Baroness, Lady Goldie—and the Bill team. This positive arrangement resulted in the removal of the derogation clause, which is welcome.

We do not want to wreck the Bill; we do not want to kill the Bill. The Government have identified a real problem: personnel can be plagued by vexatious claims and shoddy investigations. But the Government are approaching the problem from the wrong direction by failing to tackle the issue head-on, damaging our international reputation and threatening the Armed Forces covenant.

The amendments which have been successful in this House put personnel first by recognising the MoD's responsibility to support troops facing investigation and litigation by placing adequate restrictions on reinvestigations and by ensuring that the Armed Forces

[LORD TUNNICLIFFE]
covenant is not breached by the longstop. They put forces personnel first because they have been led by noble and gallant leaders in this House. I especially thank the noble Lords, Lord Dannatt and Lord West, and the noble and gallant Lords, Lord Stirrup and Lord Boyce, for their leadership and guidance on these important issues. I also thank former Defence Secretaries and Ministers for their contributions.

The other key amendment extended exclusions from the presumption to cover genocide, torture, war crimes and crimes against humanity. I want to thank my noble friend Lord Robertson for leading this broad coalition.

I also want to thank the Public Bill Office for all its advice and help, the House staff, my two leaders—my noble friends Lord Touhig and Lord Falconer—and my adviser and researcher, Dan Harris, without whom I could not have survived.

2.40 pm

Baroness Smith of Newnham (LD): My Lords, as the Minister and the noble Lord, Lord Tunnicliffe, have both pointed out, in many ways there is a lot of agreement on this Bill. Although from these Benches at times there were mutterings of "Kill the Bill", they were not from me as the Front Bench spokesperson on defence; even my noble friend Lord Thomas of Gresford understands that this is an important Bill and that we are all coming from the same place. Our absolute commitment is to our service men and women and veterans, to getting the right provisions for them, and for dealing with vexatious claims. The question is: what is the best way of dealing with that?

Obviously, as the Minister has said, this Bill was part of a Conservative Party manifesto commitment, but I am also aware that a lot of the issues about vexatious claims and extent go back to Northern Ireland, so at some point I am expecting similar legislation to come forward. I am also expecting that some of the issues that we have debated at various stages of this Bill, particularly those associated with the duty of care, will come back in the context of the Armed Forces Bill later this year. Some of the amendments that were passed—important amendments, as the noble Lord, Lord Tunnicliffe, has pointed out—go wider than the narrow confines of this Bill.

Like the noble Lord, Lord Tunnicliffe, I would like to thank the Minister and also the Advocate-General for Scotland for the time that they spent talking to us and listening to our concerns. I am especially grateful to hear that the noble Baroness has trenchantly taken back our views on what was Amendment 3 on Report. One of the areas on which we have almost unanimous agreement on across the House is that it is appropriate for us to look again at the issues of genocide, war crimes, crimes against humanity and torture. If the Minister can do one thing, it would be to try to persuade the Government not to force the Commons to vote against that amendment; if it comes back here, we will send it back—it is so important. Clearly, the noble Lord, Lord Dannatt, brought forward an important amendment on the duty of care, and if that could be kept in, that would be even more welcome.

I would like to thank the Minister again, the Bill team, my noble friends and also the Liberal Democrat whips' office, without whom I could not have done what I have done on this Bill either.

2.43 pm

Lord Dannatt (CB) [V]: My Lords, I begin by thanking all those associated with this Bill, especially the noble Baroness, Lady Goldie, the Minister, for patiently attending to the points that we have raised in Committee and on Report. I would also like to echo the words of the noble Lord, Tunnicliffe, and the noble Baroness, Lady Smith, for the support that their Benches have given to many of the amendments to this Bill. I would also like to record my appreciation of the noble and gallant Lords, Lord Boyce and Lord Stirrup, for joining me in speaking on behalf of the Army, Navy and Royal Air Force in trying to ensure that, in carrying forward this Bill, the best interests of our service people, both serving and veteran, are attended to.

I would like to congratulate the Government on standing by their manifesto promise to bring forward a Bill of this nature. I believe that the Bill, now amended going forth from your Lordships' House back to the other place, represents a far more effective way of achieving that manifesto commitment of the Government. Not surprisingly, I would urge that the amendments, particularly on the duty of care, are retained within this Bill and that this Bill now passes through the other place without further reverse amendment. Should a number of our well-intentioned amendments be reversed by the other place, we will have the opportunity of the Armed Forces Bill coming forward quite shortly. I have no doubt that many of the amendments that we have tried to put into this Bill will receive further attention in the Armed Forces Bill, not least of which is the issue of the duty of care. The Ministry of Defence as a caring employer has, indeed, a duty to ensure that they are seen through.

Once again, I thank all those involved, particularly those speakers from the Cross Benches. I hope very much that this Bill now passes in the other place without undue reverse amendment.

2.46 pm

Baroness Goldie (Con): My Lords, I thank the noble Lord, Lord Tunnicliffe, the noble Baroness, Lady Smith, and the noble Lord, Lord Dannatt, for their comments. I know that they continue to give me a message, and I continue to listen to the message.

Bill passed and returned to the Commons with amendments.

Arrangement of Business

Announcement

2.47 pm

The Deputy Speaker (Lord Haskel) (Lab): My Lords, for Day 3 of Report stage of the Financial Services Bill, I will call Members to speak in the order listed. Short questions of elucidation after the Minister's response are discouraged. Any Member wishing to ask such a question must email the clerk. The groupings are binding. Participant who wish to press an amendment other than a lead amendment in a group to a Division

must give notice in debate or by emailing the clerk. Leave should be given to withdraw amendments. When putting the question I shall collect voices in the Chamber only. If a Member taking part remotely wants their voice accounted for if the question is put, they must make this clear when speaking on the group. We will now begin.

Financial Services Bill

Report (3rd Day) (and remaining stages)

2.48 pm

Amendment 28

Moved by ***Baroness Neville-Rolfe***

28: After Clause 40, insert the following new Clause—

"Digital identification in the UK financial system

(1) The Treasury may by regulations establish a scheme for the use of a distributed digital identification for individuals and corporate entities operating in the UK financial system.

(2) Regulations under this section are subject to the affirmative procedure.

(3) In this section, "the UK financial system" has the same meaning as in the Financial Services and Markets Act 2000 (see section 1I of that Act)."

Baroness Neville-Rolfe (Con): My Lords, I shall speak to Amendments 28 and 29 in my name on digital identification, and I thank my noble friends Lady Mcintosh of Pickering and Lord Holmes of Richmond for their support. I take a substantial interest in facilitating the provision of digital ID and have done so for several years. It is the sort of thing where the UK, with its early adoption of digital and skills in matters of security, should be ahead of the curve. Perfectly good systems exist in a number of areas and have been rolled out in other European countries and Asia but, unfortunately, not here.

I tabled amendments in the same sense during the passage of Covid legislation last year. I did not press the matter because I was promised progress and I had good meetings with my noble friend Lady Williams and with the Digital Minister, Matt Warman MP, who published proposals for the UK digital identity and attributes trust framework on 11 February. Last week, my noble friend Lord Holmes and I had another constructive meeting, this time with my noble friend Lady Penn—currently on the Front Bench—and civil servants in DCMS and the Treasury.

I am perhaps a little too impatient for the Civil Service or, indeed, for the Front Bench, which is no doubt why I am better suited to these Benches, but I warn noble Lords that I will continue to press this matter until we introduce a reliable system of online ID—not a consultation and not a plan, but a government-approved system. But I am very reasonable, so let us start in financial services—the subject of today's Bill. So much progress has been made already that it ought to be possible to capture this in regulation now. As we discussed in Committee, this could be helpful in reducing fraud, which has mushroomed in financial services.

Likewise, we should be able to introduce digital ID for sales of alcohol; the supermarkets already use such methods for preventing the sale of knives to those aged under 18. We should also allow a trial in a pub chain or two, and we could use digital ID in the property sector, where the ID checks for domestic house sales are needlessly bureaucratic and repetitive. We do not need to get into the question of domestic vaccine passports, of which I strongly disapprove, or of ID cards, but evolutionary progress on digital ID—starting in financial services and honed to appropriate use—is overdue.

I have tabled two alternative amendments. Amendment 28 is an enabling power allowing the Treasury to press ahead, subject to a parliamentary debate, as soon as it has sorted out a system of digital ID—whether on a trial basis or when it has a definitive solution for the sector, which should be soon. We do not want to wait for the online harms Bill or another legislative vehicle. Amendment 29 provides for a review by 1 September this year. My own experience as a Minister and a civil servant is that such reviews and a clear date can be effective where there is a political will to get something done, as I believe there is here. I beg to move.

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to follow my noble friend Lady Neville-Rolfe; in doing so, I declare my financial services interests as set out in the register.

My noble friend and I came into the House in the same autumn and, since 2013, we have both talked very much about distributed digital ID. It was pressing in 2013, so it certainly is in 2021. I will speak to all the amendments in this group briefly. I had pleasure in adding my name to my noble friend Lady Neville-Rolfe's amendments; they are clear, succinct, short and to the point, and do the job. Does my noble friend the Minister agree?

My Amendment 30 merely seeks to flesh out some of the elements which must be considered if we are to have a successful distributed digital ID—the issues around scalability, flexibility and, crucially, inclusion. Does my noble friend the Minister agree that not only are these three issues vital to any distributed digital ID but that any ID should be predicated on the 12 principles set out in self-sovereign identity? Does she also agree that, because of the nature of this issue—as my noble friend Lady Neville-Rolfe pointed out—including issues around ID cards and Covid passports, there is a pressing need not only to move forward with this work but to have a public engagement to enable people to understand the issues and really get to grips with a system that can work for all?

My Amendment 31 seeks only to push the opportunity for the UK around open finance. We have seen the advantages open banking has brought; does my noble friend the Minister agree that open finance could be a boon for the UK, and could she set out the Government's plans to enable this? I brought Amendment 32 forward in Committee so I will not dwell on it, except to seek a specific answer on subsection (2)(a) of the proposed new clause. Does my noble friend the Minister agree that we need to seriously consider the dematerialisation of UK securities at least at the same speed as that proposed in the EU? This is a competitive market; it is a race.

[Lord Holmes of Richmond]

Finally, my Amendment 37E was brought forward simply to push the need for a review of access to digital payments. Digital payments are the future, accelerated by Covid, but, crucially, huge swathes of the population rightly rely—and must be allowed to rely—on cash. Does my noble friend agree that we urgently need a review of access to digital payments?

The Deputy Speaker (Lord Haskel) (Lab): I call the noble Lord, Lord Davies of Brixton. Lord Davies? I call the noble Baroness, Lady McIntosh of Pickering.

Baroness McIntosh of Pickering (Con): I am delighted to support my noble friends who have tabled amendments in this group, particularly my noble friends Lady Neville-Rolfe and Lord Holmes of Richmond; they are very timely contributions to this debate. I am delighted to lend my support by co-signing Amendment 28 in the name of my noble friend Lady Neville-Rolfe and co-signed by my noble friend Lord Holmes of Richmond. My starting point is with my interest in developing digital ID and proof of age through digital verification. I speak as chairman of the Proof of Age Standards Scheme board.

For the reasons that both my noble friends have so eloquently given to the House this afternoon, time is passing, and we are living in a digital age; it is extremely important that this is recognised by all departments affected. I pay tribute to the work of the working group, of which PASS is a member, which is, I think, set up under the auspices of the Home Office and the Department for Digital, Culture, Media and Sport. I hope that my noble friend the Minister will be able to confirm that the Treasury is also co-ordinating aspects of digital identification with these other departments. It is extremely important that, if it is the wish of my noble friend Lady Neville-Rolfe that we proceed initially with financial services, we co-ordinate with other aspects. It has been a huge success in terms of sales of alcohol and knives, as my noble friend expressed. In Scotland, where 16 year-olds are able to perform and purchase so many more services than 16 year-olds in the rest of the United Kingdom, the proof-of-age PASS card has been especially important in that jurisdiction.

With these few remarks, I hope that my noble friend will look favourably in particular on Amendment 28. It is important to proceed prudently but with some pace to make sure that we are ahead of the game. This is the time for digital identification—with the proviso that we have the ability to verify age. I absolutely agree with my noble friend Lady Neville-Rolfe that there is space for digital identification in the terms of the online harms Bill, but there is no reason to delay by not passing this amendment to the Financial Services Bill before us this afternoon.

3 pm

Lord Hunt of Wirral (Con): My Lords, I draw attention to my interests as set out in the register, particularly as one of the independent directors of the LINK scheme, the UK's largest cash machine network. I support my noble friends Lady Neville-Rolfe, Lord Holmes of Richmond and Lady McIntosh of Pickering, on Amendment 37E in particular.

It is, of course, far too soon to be drawing definitive conclusions based upon our experiences of the past year or so. However, it is striking how the pandemic has tended to accelerate some existing trends. One has been the declining use of cash. For many people, this decline is something to be embraced. Last summer and again in recent days, pubs and restaurants have begun to reopen, almost universally on the basis of card payments only; the commonly preferred method is to order from the table and pre-pay through a mobile device—no cash, no cards even, and with minimised physical contact. Home delivery of food has expanded dramatically. It is therefore hardly surprising that withdrawal of cash from ATMs almost halved during the worst of the pandemic. I know people who have stopped carrying cash. However, as my noble friend Lord Holmes of Richmond pointed out, this approach does not work for everyone.

Think, for example, of the disadvantages for isolated, elderly people who have to rely upon neighbours for food shopping. Unless they bank online, how can they repay them? My noble friend's amendment reminds us that even when a trend is broadly welcome to the vast majority of people, it can isolate a minority from the mainstream, sometimes with cruel and unjust consequences. Financial exclusion, digital exclusion, social exclusion and economic exclusion all too often go hand in hand. I know from my work with LINK that those in charge of the UK financial system are acutely aware of these problems and challenges. Indeed, they are working tirelessly to address them, and LINK in particular is committed to maintaining free access to cash across the country, for as long as consumers want and need it.

As part of this commitment, LINK maintains a financial inclusion programme. This has so far provided 1,800 communities with a new, free-to-use ATM service, by providing financial subsidies to operators who install the machines. Consumer and community groups, local authorities, Members of Parliament—including Members of this House—and indeed any other interested parties, can help to identify further, suitable sites. Some providers of ATMs base their business model on charging for transactions. That is a perfectly valid approach, but no one should underestimate just how precious a resource a free-to-use ATM is.

It may be that this amendment is too prescriptive, and I look forward to hearing from my noble friend the Minister on the wording, but these challenges can be overcome only by partnership, including banks, the Post Office, retailers, regulators and the Government, all founded upon the latest possible information and analysis. This will require leadership and a positive, co-operative spirit.

We would be wise to take care in drawing any lasting conclusions from our experience of the pandemic. Much more analysis needs to be done of how financially marginalised people, particularly those without bank accounts, have fared since the beginning of 2020. I am confident that the trends and suggested responses set out in Natalie Ceeney's excellent report of March 2019 will broadly stand the test of time. All that has changed is the acuteness of the challenge and the urgency of coming together to fashion a sustainable response.

Baroness Kramer (LD): My Lords, the amendments in this group all deal in one way or another with the digital world and its implications for financial services. We all understand that we are in the midst of a revolution which will gather pace, rapidly expand, and reshape how we lead our lives. It is important that the UK is at the front of the curve in delivering those changes, to underpin its financial services industry. I was very pleased to see that the Bank of England and the Treasury have just announced the creation of a joint task force on central bank digital currency, a potential linchpin to those changes.

These amendments are all extremely useful. On digital identity, the noble Lord, Lord Holmes, hit the nail on the head, when he talked about the importance of engagement with the public. There are a lot of issues around identity, including issues of privacy. It is not an easy issue but a complex one. I hope that this engagement is dealt with more broadly. It may well be that the kind of targeted examples that the noble Baroness, Lady Neville-Rolfe, is concerned to see delivered much more quickly are easier to deal with, but of course, they will always lead to further questions, and this is something that we must confront head on.

We will be discussing access to cash in another group, as the noble Lord, Lord Holmes, has a specific amendment related to that, but it also points out how when we go through revolutionary change, there are always people who will be part of the "left behind", either by choice or by capacity. Those people have every right to be able to pay a full part in our society and in our communities. Finding those mechanisms may be expensive, since it is much more efficient to go with a single strategy, but we must recognise the full complexity of the societies in which we live, the different pace at which people accept change and the degree to which they need support through that change.

I very much hope that we see something strategic coming from the Government, because we are dealing with each issue in a rather piecemeal way. We have reached the point where we need that fundamental underpinning, and I hope that we can begin to develop that strategic view, and quickly.

Lord Tunnicliffe (Lab) [V]: My Lords, we welcome the amendments tabled by the noble Baroness, Lady Neville-Rolfe, and the noble Lord, Lord Holmes of Richmond, on digital ID and other, broader, fintech issues. They provide the Government with an opportunity to elaborate on the responses given in Committee. I hope that those who tabled the amendments will forgive me for not speaking to each in turn, but to do so would be to repeat many of the points already made.

While we would not necessarily endorse some of the timescales envisaged in the amendments, the questions asked by the noble Baroness, Lady Neville-Rolfe, and the noble Lord, Lord Holmes, are sensible. In commissioning a review of fintech, the Government have demonstrated a level of interest in it, but the key question is how that is developed into concrete initiatives that grow the financial services sector while also improving the customer experience. The use of distributed digital identification could bring about a fundamental shift in how individuals and financial service businesses operate and interact on a day-to-day basis.

Properly considered implementation of digital ID could empower consumers by giving them greater choice in the services that they can access and better control over their personal data. The latter point is crucial. Any steps to further digitise the sector must come with security and privacy safeguards built in. It may not be possible or desirable to roll out digital ID overnight, but it would be interesting to hear more on the steps being taken by the Treasury and others to assess the opportunities and risks that exist. I hope that the Minister can also speak to potential timescales, even if they are not as ambitious as those spelled out in the amendments.

Amendment 37E in the name of the noble Lord, Lord Holmes of Richmond, appears to be a probing amendment, but I hope the Government will take seriously his suggestion of studying the links between digital and financial exclusion. In an earlier debate I referred to the need to tackle some of the bigger, more complex issues that contribute to financial exclusion. Without concerted effort now, one can envisage a scenario in which certain sections of the population already susceptible to financial exclusion will be unable to avail themselves of the products and services facilitated by new technologies.

We are at an interesting point in the fintech debate following publication of the Kalifa review. Items such as digital ID are mentioned in that document, albeit in the context of the need to establish international codes and standards. The UK has long been a leader in this sector. If we are to continue being so, both government and business must seek to participate fully in relevant cross-border discussions and initiatives.

I note from my latest perusal of the House of Lords business that the ever-tenacious noble Lord, Lord Holmes, has secured an Oral Question on 27 April regarding the Government's response to the Kalifa review's recommendations. I hope the Minister can provide sufficient reassurance that the Treasury recognises and wishes to harness the potential of fintech, but I am sure that any gaps in the response today will be revisited in just under two weeks.

Baroness Penn (Con): My Lords, this group of amendments returns to the use of technology and data in financial services, a topic we have discussed at length at earlier stages. It is an important debate, and I welcome the efforts of noble Lords to bring this to our attention again.

As the noble Baroness, Lady Kramer, noted, as part of UK FinTech Week 2021 my right honourable friend the Chancellor, just this morning, delivered a speech setting out the Government's commitment to fintech as a crucial component of the future of UK financial services. The Chancellor made several announcements, including the launch of a new task force between the Treasury and the Bank of England to co-ordinate exploratory work on a potential central bank digital currency; a new financial market infrastructure sandbox; confirmation that the FCA will take forward the idea of a regulatory scale box; a package of measures to support fintech firm growth; and a commitment to work with the fintech community to realise the idea of a new, industry-led centre for finance, innovation and technology.

[Baroness Penn]

The Chancellor also reiterated his thanks to Ron Kalifa for his landmark fintech review and confirmed that the Government will shortly provide a detailed response to Parliament via a Written Statement. I am not sure I can say to the noble Lord, Lord Tunnicliffe, whether that will be before the Oral Question on 27 April.

I turn to the amendments before us today. Amendments 28, 29 and 30 all relate to the establishment of a system of digital identification and call on the Government to publish plans for achieving this. Digital identity is a vital building block for the economy of the future. The Government recognise that digital identities have the potential to make it quicker, easier and more secure for people and businesses to get things done, to simplify people's lives and to boost business. We want to offer people the choice to provide their identity digitally where and when it suits them, securely, easily and with confidence.

I was pleased to be able to meet my noble friends Lady Neville-Rolfe and Lord Holmes last week. In that meeting, we discussed the ambitious programme of work that the Government are taking forward on digital identities that work across the economy, some of which I will summarise here.

The Government published their response to the digital identity call for evidence in September 2020 and committed to creating a framework of standards, governance and legislation to enable digital identities to be used in the greatest number of circumstances. I assure my noble friend Lady McIntosh of Pickering that this work is being co-ordinated by the Department for Digital, Culture, Media and Sport across all departments, including the Treasury, so that the policy on digital ID captures the widest number of applications and uses for it. An important part of this work was the recent publication of the draft *UK Digital Identity and Attributes Trust Framework*. This framework sets out a vision of the rules governing the future use of trusted digital identity products.

3.15 pm

I agree with my noble friend Lord Holmes, the noble Baroness, Lady Kramer, and the noble Lord, Lord Tunnicliffe, about the importance of public engagement in this area. A public survey accompanied this publication, inviting industry, civil society groups and the public to share their feedback, so that the final trust framework meets the needs of all users. This is an important first step in the Government's plans to enable the development of digital identities that work across the economy, including with financial services.

DCMS is working with a range of stakeholders across the public and private sectors, academia and civil society to further refine and develop the trust framework. To ensure the delivery of a productive digital identity market, the department is working with stakeholders so that they understand the framework and the ways in which it can be used. A second iteration will be published this summer, followed by a further period of in-depth consultation with stakeholders to ensure that they are confident with their understanding of new or updated sections.

The Government are also looking at how legislation can help to support widespread adoption of secure digital identities across the economy. We want to give legal certainty on how to use digital identities and legal gateways to check identity attributes against government data. The Government plan to formally consult on an enabling framework later this year.

The Government therefore consider that progress is already under way to support the use of digital identity products that will work across the economy and between different economic sectors, and that industry stakeholders and the public are engaged on how this work is being shaped. The Treasury will continue to work with financial services and the Department for Digital, Culture, Media and Sport to ensure that the Government's approach to digital identity reflects the needs of financial services businesses and customers.

Amendment 31 would introduce a mandatory regime for open finance through the laying of draft regulations. I agree with my noble friend Lord Holmes on the importance of open finance to the UK. The UK is widely considered a global leader in open banking, which enables customers to share their data with third-party providers to increase access to a wider range of products and services. The Government therefore recognise that applying these principles to a wider range of financial services data through open finance has the potential to offer significant benefits to customers. However, increased data sharing also carries significant associated risks, and it is therefore essential that an appropriate regulatory framework is in place.

Such initiatives also stand to present a notable undertaking for firms to deliver. That is why the FCA published a call for input on open finance to increase understanding of how to enable data sharing in a way that is proportionate while maximising benefit and mitigating risk, including the right use of regulation. The FCA's response to the call for input, published on 26 March, sets out its next steps for a regulatory strategy for open finance. Central to this strategy is supporting industry-led efforts to develop common standards and road maps to open finance.

Further, the Department for Business, Energy and Industrial Strategy has already announced plans to bring forward legislation that will give government the powers to mandate data sharing across sectors, including powers to legislate for open finance if required in future. As part of its next steps on open finance, the FCA has highlighted that it will continue to work to support the design of legislation.

On Amendment 32, I agree with my noble friend that this is a hugely important area and wish to reassure him that the Government are determined to ensure that the financial sector is able to take advantage of the opportunities of greater use of technology in financial markets. The Government are carefully considering the current legislative framework and what changes may be required to facilitate digital securities.

Earlier this year the Government put out a call for evidence on distributed ledger technology, DLT, in financial market infrastructures, which asked for feedback regarding what regulatory or legal barriers exist that currently limit the adoption of DLT in UK financial markets. The Government have today committed to

setting up a new financial market infrastructure sandbox for firms innovating with new technologies such as DLT.

Similarly, the amendment seeks to require the Government to consider matching the EU's timetable on dematerialisation. We have now left the EU and, while we should be considering the approach that other jurisdictions take, it would be inappropriate to refer to just one in legislation. The Government will of course update Parliament on any planned legislative changes as appropriate.

On Amendment 37E, the Government recognise that digital payments are playing an increasingly important role for businesses and individuals, with many making payments faster, easier and cheaper, and managing finances more straightforward. Amendment 37E calls for a review of access to digital payments, in particular among those with protected characteristics, those from different socioeconomic groups, and those from each nation and region of the United Kingdom.

I assure my noble friends Lord Holmes and Lord Hunt that the Government recognise the importance of ensuring that consumers are not left behind by trends and innovation within the payments sector. I also assure the noble Baroness, Lady Kramer, of our commitment to protecting access to cash, and that the Government are committed to advancing legislation in this area to provide further protections separate from the amendment we will debate later.

In addition, the Government have a range of existing policies designed to support inclusion. The Treasury and the Department for Work and Pensions jointly publish an annual report on financial inclusion. This outlines the Government's work and progress in key areas, including access to banking, credit, insurance, work with credit unions and support for financial capability, such as debt and savings. We are taking action to require banks to provide basic bank accounts, rolling out world class digital connectivity across the UK, and improving access to digital skills training for adults, including disabled and older people.

I hope that I have demonstrated the Government's commitment to this important area, and that noble Lords will therefore feel able to not press their amendments.

Baroness Neville-Rolfe (Con): My Lords, I thank all who have spoken in this short but wide-ranging debate. Time is passing, and we live in a digital age, as my noble friend Lady McIntosh of Pickering said—a revolution indeed, in the words of the noble Baroness, Lady Kramer. My noble friend Lord Hunt of Wirral reminded us that the withdrawal of cash halved during the pandemic, with some cruel consequences. LINK does great work; I remember that from my time at Tesco. We need a network to endure as normality returns. I thank the Minister for updating us on the Chancellor's statement on fintech and open finance today.

It may not surprise noble Lords that I remain disappointed at the pace of change on digital ID. The Minister is right to emphasise what has been done in recent months, and I strongly support this. However, years are passing, our leadership in digital is eroding, and we can no longer blame the EU. We must solve this problem for the industries, services and, above all, consumers involved. Of course there must be public engagement, but this must not be used as an excuse for undue delay. I will be back, but for today, I beg leave to withdraw my amendment.

Amendment 28 withdrawn.

Amendments 29 to 32 not moved.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): We now come to the group consisting of Amendment 53. Anyone wishing to press this amendment to a Division must make that clear in the debate.

Amendment 33

Moved by ***Lord Sikka***

33: After Clause 40, insert the following new Clause—

"FCA duty to make a statement about ministerial directions on investigations

(1) The Financial Services and Markets Act 2000 is amended as follows.

(2) After section 1T (right to obtain documents and information) insert—

"1U Duty to make a statement about ministerial directions on investigations

Where a Minister directs, comments on, or intervenes with an FCA investigation into wrongdoing or malpractice by a company, the FCA must make a public statement about the nature of any such intervention.""

Lord Sikka (Lab) [V]: My Lords, I am very grateful to the noble Baroness, Lady Bennett of Manor Castle, and the right reverend Prelate the Bishop of St Albans for supporting this amendment. It was discussed in Committee, but the Government's response has raised more questions than answers.

The amendment seeks transparency about ministerial interventions or directions on investigations, especially into malpractice by companies. It would require the FCA to make a statement as and when Ministers intervene. Currently, ministerial interventions and directions, especially those that stymie investigations, are made in secret. Parliament and the public are not informed, and there is no opportunity to question Ministers. Such interventions mean that selected corporations receive ministerial favours and others do not. In the absence of investigations into the criminal practices of major corporations, it is impossible to develop effective legislation or financial regulatory practices.

In Committee, I provided some evidence of how the UK Government protected criminal organisations. It related to HSBC, which, by its own admission, had been engaged in criminal conduct in the US. In 2012, it was fined $1.9 billion for money laundering offences, which at that time was the largest fine ever levied upon a corporation. HSBC also faced the prospect of a criminal prosecution.

HSBC was supervised by the Financial Services Authority, an independent regulatory body in the UK. The US fine did not persuade the FSA to investigate. Instead, on 10 September 2012, the then-Chancellor George Osborne, the Bank of England and the FSA

[Lord Sikka]

secretly wrote to US regulators and urged them not to prosecute HSBC, as the bank was apparently too big to fail.

The ministerial interventions came to light not because of any statement made by the Government but through a July 2016 report by the US House of Representatives Committee on Financial Services. The report was titled *Too Big to Jail*, and reproduced the Chancellor's letters and some email and telephone conversation records, though these are not comprehensive. It is clear that the Bank of England, the Treasury and the regulator colluded to protect a bank engaged in criminal conduct. The matter came to light in July 2016, but there was no Statement made to Parliament to explain why a criminal organisation was being protected by the Government. By July 2016, the FSA had morphed into the FCA, but the FCA did not launch an investigation either.

The report by the US House of Representatives Committee on Financial Services shows that the Government were also shielding other UK banks. These included Standard Chartered, which was fined £670 million for money laundering, and a closer reading of the same report shows that the Government also intervened to protect Barclays.

In Committee, I referred to my legal endeavours to secure a copy of the Sandstorm report, which provides some information about frauds and fraudsters at the Bank of Credit and Commerce International. The bank was closed in July 1991, but there has been no forensic investigation into the biggest banking fraud in the 20th century. Most of the Sandstorm report is available in 1,300 US libraries. The UK courts have forced the Treasury to release a copy to me, and it shows that the Government are still protecting individuals linked to al-Qaeda, Saudi intelligence, and the royal families of Abu Dhabi and other countries in the Middle East, as well as arms dealers, smugglers, fraudsters, convicted criminals, BCCI senior personnel, and some politicians.

What kind of Government protect criminal organisations and wrongdoers? What kind of democracy do we have when such interventions are not explained to Parliament and the people? One of our greatest failures is to not develop durable institutional structures, effective laws and enforcement, and a major reason for this is that many frauds and abuses are simply covered up.

3.30 pm

The Minister, the noble Earl, Lord Howe, said in Committee that Section 77 of FiSMA provides safeguards and that

"the Treasury can require the regulators to conduct an investigation into relevant events where the Treasury considers there to be a public interest".—[*Official Report*, 10/3/21; col. GC 691.]

None of the examples I have given has been subject to any investigation. Were they not in the public interest? Looking at even contemporary events, how can the Treasury be satisfied with the FCA's failure to investigate fully and take action against those who perpetrated frauds at RBS and HBOS?

The Thames Valley police and crime commissioner has repeatedly said that there has been a cover-up of the HBOS and RBS frauds. The commissioner secured convictions and prison sentences for six individuals in connection with fraud at HBOS. He acted because the FCA and the Treasury did not. In an article in the London *Evening Standard* on 8 February 2019, the commissioner stated:

"I am convinced the cover-up goes right up to Cabinet level. And to the top of the City."

I have in front of me some correspondence between the commissioner and the Prime Minister's office, from which I shall read some extracts. On 30 May 2017, possibly in response to previous invitations, the commissioner wrote to Prime Minister Theresa May, saying:

"There is a serious problem with bank governance, which appears to be corrupt at the highest level in a number of our major banks. The governance system itself is being run by those most involved in cover ups and corrupt practices. For instance, the senior partner of the audit company that failed, either through incompetence or complicity, to notice a £1 billion fraud within HBOS is now Chairman of the Financial Conduct Authority, and the Chairman of the bank when much of this was covered up is now Chairman of the Financial Reporting Council."

The letter goes on:

"Some of the cover up also involves the Treasury and two past Chancellors".

These are serious allegations by a senior law enforcement officer, in a letter to the Prime Minister.

On 12 June 2017, Sir Jeremy Heywood replied from the Cabinet Office on behalf of the Prime Minister, saying:

"I was very concerned to read the extremely serious allegations set out in your letter. I would strongly urge you to pursue them formally through the proper channels, by contacting Andrew Bailey at the Financial Conduct Authority."

Sir Jeremy went on:

"Given the extremely serious nature of your allegations, I will keep a close eye on this matter, and would be happy to meet you if you would find it useful."

The commissioner wanted to meet Sir Jeremy, and said so on 19 June, but did not hear anything. He sent a reminder on 27 June 2017, saying:

"I would like to meet with you if possible to show you some of the compelling evidence".

I do not know who was consulted after that by the Cabinet Office but, despite the initial offer, Sir Jeremy subsequently declined to meet the police and crime commissioner. What directions did the Cabinet Office and the Treasury provide, to whom, and when? I hope the Minister can give a commitment to publish all this correspondence and bring it to public attention, so that we can all judge whether the Treasury, No. 10 or anyone else is indeed engaged in a cover-up.

I also take issue with some of the replies provided in Committee. The Minister's reply seemed to suggest that the evidence that I cited related to the era of the FSA and not the FCA, but forgot to mention that both these agencies were presided over by the Conservative Government and both were labelled as "independent". It is no good saying that the matters are old or predate the creation of the FCA. That would be akin to saying that the police should not investigate matters just because the crimes predate the appointment of a new police commissioner. It is not uncommon for the police to investigate matters going back 10, 20 or 30 years, or even longer. So, why is it so different for the FCA and the finance industry's activities?

Interestingly, on 16 March 2021, the FCA announced criminal proceedings against National Westminster Bank for money laundering offences between 11 November 2011 and 19 October 2016. These offences occurred before the FCA formally appeared on the scene. Why is it that the FCA can take on NatWest but not HSBC, Standard Chartered Bank and Barclays Bank? HSBC was fined in 2012 in the US. The Government cover-up came to light in 2016. At that time, the FCA was the regulatory body, so why did it not act? Was it overruled by the Treasury? There was certainly direct involvement by a Chancellor, as I have mentioned.

In my evidence in Committee, I referred to BCCI; that issue continues. On 22 March, the Minister, the noble Earl, Lord Howe, wrote to Members of the House who had participated in the Committee stage of the Bill, saying that

"there are currently no plans to publish an unredacted version of the report by Lord Justice Bingham into the supervision of BCCI, otherwise known as the Sandstorm Report."

No justification was offered in that letter for suppressing a 30 year-old document. No time has been made available to ask questions about the nature of that report or its implications. As I have said, this document is sitting publicly available in 1,300 US libraries, but it continues to be a state secret in the UK.

If the Government accept the principle of transparency, they can improve the wording of this amendment and make it part of this or future legislation. The outcome can only be better regulation and government accountability, as well as higher public confidence in the finance industry—something we all seek. I beg to move.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, it is a great pleasure to follow the noble Lord, Lord Sikka, who has just delivered what I can describe only as a bombshell of a speech—one that makes the case for the extraordinary importance of this amendment and for a far broader cleanout of the Augean stables of our financial sector and its so-called regulation and, indeed, of our entire UK system of government.

I remind noble Lords that Amendment 33 in the name of the noble Lord, Lord Sikka—also signed by the right reverend Prelate the Bishop of St Albans, and to which I am pleased to attach my name—creates for the FCA a

"duty to make a statement about ministerial directions on investigations".

I also remind noble Lords of a key part of the speech that we have just heard. On 30 May 2017, possibly in response to previous invitations, the Thames Valley police and crime commissioner wrote to Prime Minister saying:

"There is a serious problem with bank governance, which appears to be corrupt at the highest level in a number of our major banks. The governance system itself is being run by those most involved in cover ups and corrupt practices."

That came from the Thames Valley police and crime commissioner, yet it appears that nothing has been done in response to that letter. I note also, as the noble Lord, Lord Sikka, said, that despite an initial offer of a meeting, the late Sir Jeremy Heywood subsequently declined to meet the police and crime commissioner.

Who should be paying attention to this? I would say everyone in the UK, and indeed the world, for while it might be more than a decade since the threat presented by the financial sector to the security of us all was made so starkly evident, the threat remains and is undoubtedly even greater now than in 2008. Among those who should be paying particular attention, I strongly suggest, are all those who have been assuring us in this House and elsewhere that everything is fine: "Nothing to see here, just a few bad apples being cleared out". People have been saying that there is no problem with regulation or transparency, or the risks that the financial sector presents. They should pay attention to the noble Lord's speech.

The House has heard my views before on the deep-rooted, decades-old—indeed, centuries-old—issues with our financial sector. I am not going to repeat those, which I explored at some length in Committee. Instead, I focus in this stage on the financial sector as a huge global crime issue, as a major United Nations initiative has recognised. I refer to the High-Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda—the so-called FACTI panel. It is calling on Governments to agree to a global pact for financial integrity for sustainable development. This reminds us that while we often think of white-collar crimes and fraud as victimless, in fact they are crimes that damage the whole world, but particularly the poorest and most vulnerable in the UK and globally.

The FACTI panel, consisting of former world leaders and central bank governors, business and civil society heads and academics, says that as much as 2.7% of global GDP is laundered annually, while corporations shopping around for tax-free jurisdictions cost Governments up to $600 billion a year. We have heard often in debating the Bill, and elsewhere from the Government in particular, about how prominent the UK financial sector is on the global stage and about its world-leading role. There can be no conclusion from the FACTI report except that it is directed clearly at the UK and at your Lordships' House.

The FACTI panel says that stronger laws and institutions are needed to prevent corruption and money laundering, and that the bankers, lawyers and accountants who enable financial crime must also face punitive sanctions. The report also calls for greater transparency on company ownership and public spending, stronger international co-operation on the prosecution of bribery, to which this amendment is particularly relevant, on minimum corporate tax, which I asked a question about last week, and on the global governance of tax abuse and money laundering. In Committee, I also referred to the Center for American Progress, not necessarily an organisation with which I often ideologically agree. However, it was making similar arguments to those of the FACTI panel. I invite any noble Lords with an *FT* subscription—which is all of us, through the Library—to look at stories tagged "financial fraud". They make for a sober set of reading.

Action is needed. We hear often about the need for the UK to be world leading. I want to reflect on a meeting—which I know was before the pandemic because it was in person, conducted upstairs in one of the

[Baroness Bennett of Manor Castle]
Committee Rooms of your Lordships' House—when I had a discussion with a group of University of Michigan master's students. They were visiting with their professor while in Europe to study fraud; their entire master's degree was in fraud and corruption, examining the scale of it around the world. Pointing down the road from your Lordships' House, I said to them that the City of London was one of the global centres of corruption. I was perhaps not surprised but still interested to discover that there was no expression of shock or surprise from those students. They simply nodded in agreement, as if I had made a statement that to them was blindingly obvious.

The City of London has been trading on its global reputation with centuries of propaganda, backed for much of that time by the muscle of colonial power. The world has moved on and is less and less likely to believe the propaganda. Amendment 33 is a simple, modest and far from sufficient step, though an important one, to ensure transparency in the governance of our financial sector—indeed, transparency of our governance. I commend it to your Lordships' House.

3.45 pm

Baroness Neville-Rolfe (Con): My Lords, I rise to speak on Amendment 33 in the name of the noble Lord, Lord Sikka, having studied the comments made in Committee and repeated today. I can understand his frustration with history in this area. In particular, I would highlight the long delay and prevarication by Lloyds and the then regulator in dealing with the HBOS scam, which led to the demise of a number of small businesses banking with HBOS's corporate division in Reading. Maybe more transparency would have helped there but it was actually a failure by the bank itself and by the regulator, which I very much hope would not happen again today. I am still not entirely sure what eventually happened; I know that there were some high-profile convictions. Perhaps my noble friend the Minister could update us on that sorry tale. I share everyone's wish to see a system where it could never happen again.

However, I always worry that bad cases make bad law. The cases being quoted are generally old, while the FCA's powers have been strengthened over the years and the culture has changed so that it is now very pro-consumer. Moreover, as my noble friend the Deputy Leader of the House explained on 10 March, the FCA is an independent body and the power of Ministers to intervene is very circumscribed. I suspect we will come back to these issues in the next financial services Bill, so I would like to make two points today.

First, reports from the United States have to be treated with some care. It is a sad fact that, unlike our own regulatory authorities, the US ones are more than a little protectionist. They come down harder on foreign entities than their domestic ones and like to levy huge fines whenever they can. It is not a level playing field, unlike the UK, which is of course one of the reasons why investors like it here. Secondly, in the sort of cases we are talking about, Ministers—I speak from experience, first as a civil servant and secondly as a Minister at BEIS, DCMS and HM Treasury—act on advice, not as free-talking politicians. If they make a direction in an investigation, it will reflect a public policy need and that could be a confidential matter, such as security or a government interest. Once that is made public it might be difficult for those being investigated to get a fair hearing, which is unfortunate in itself and likely to lead to aborted prosecutions. Whichever party is in power, this would not be in the public interest. For all these reasons, I encourage those involved to withdraw their amendment today.

The Lord Bishop of St Albans [V]: My Lords, I will be brief in my support for this amendment. I am very grateful to the noble Lord, Lord Sikka, and the noble Baroness, Lady Bennett of Manor Castle, for speaking at great length. I therefore do not need to add a huge amount more, not least as I intend to go into a bit more detail on my concerns about transparency when speaking in support of Amendment 34, which touches on similar issues of accountability.

I am a little puzzled why the noble Baroness, Lady Neville-Rolfe, thinks that this is a case of bad cases making bad laws. It seems to me that there have been very considerable concerns in the past. Surely those ought to be investigated.

We are facing a real crisis of trust in public bodies at the moment, and I believe that this amendment will be a beneficial addition to this Financial Services Bill. In making provisions for an additional layer of transparency, it will act as an incentive against any possible interference; whether done formally or informally, it will still have that effect. The truth is that we do not know whether ministerial interference in FCA investigations has occurred, and positively stating either way is speculative.

Although I was not privy to the written response from the noble Earl, Lord Howe, which he promised to send to the noble Baroness, Lady Kramer, confirming whether there were provisions within the Ministerial Code to allow for interventions in FCA investigations, the assumption in Committee was that any attempt to steer an FCA investigation would constitute a breach of the Ministerial Code. That would require breaches of the Ministerial Code or other offences to be taken seriously, and not treated lightly or even dismissed. Last year, an inquiry found evidence that the Home Secretary had breached the Ministerial Code, yet the consequences extended little further than an apology. In February, it was revealed that the Health Secretary had acted unlawfully when his department failed to reveal details of contracts signed during the Covid-19 period. Just before Easter, we all started reading about allegations surrounding conflicts of interest in a former Prime Minister's dealings with the financial services firm Greensill, and there have been concerns about the current Prime Minister's dealings during his time at City Hall. It is vital that, if we are to rely on breaches of the Ministerial Code, they are given some teeth and have some effect.

I have no evidence, but it may be that no Minister has ever interfered in any FCA investigation, in any way. I sincerely hope that that is the case, but we cannot rule it out. If interferences have occurred, it would be doubtful to assume that investigations are always steered in the interests of consumers. Although

provisions are in place to prevent misconduct, they should not discount the contribution that this important amendment can make in strengthening those rules and further disincentivising any possible ministerial interferences in FCA investigations. If Her Majesty's Government have concerns about small parts of the wording here, I hope they come back with some improvements to ensure that the levels of transparency are clear to everybody, in every part of the system.

Baroness Kramer (LD): My Lords, unfortunately, I did not bring with me a copy of the letter that the noble Earl, Lord Howe, kindly sent me in response to my question about the Ministerial Code. I expect that a copy is in the Library and available to everyone, but I am sure that the Minister will follow through. While reading the content was reassuring, I do not want it to be a distraction—it is one of the reasons that I have not signed this amendment—from the underlying issue of whether there is adequate transparency to act as the cleansing light that we need in an industry sector that will always be subject to misbehaviour. There is just too much money and opportunity, and an awful lot of power, washing through this industry. Insight, clarity and visibility are probably more important than in almost any other sector of our economy.

The noble Baroness, Lady Neville-Rolfe, talked as if all the misbehaviour was in the past, but we are talking about Greensill today and I have questions. I know that there are many task forces and investigations going on, but I still have no understanding of how a company with as many red flags against it as Greensill got through the accreditation process to enable it to participate in the CBILS. Other than writing to the British Business Bank—and I doubt that I will get an adequate answer—I am not sure what mechanism I can possibly use to get to the bottom of that. We do not have transparency in the areas where we need it.

I remember many conversations, in the midst of the 2008 financial crisis and subsequently, with regulators that were anxious not to rock the boat. The economy and industry were fragile enough, and they were disinclined to investigate. It is to that which I have always attributed the FCA's inaction with regard to HBOS. I support the description of the HBOS crisis given by the noble Lord, Lord Sikka. It was purely by chance that the fraud—it was literally fraud that sent people to jail for 10 years—at HBOS was exposed. Thames Valley Police decided to investigate when all the regulators, the Serious Fraud Office and the most relevant and obvious police forces had refused. Part of that was due to a lack of resources, from the police forces' perspective.

I do not think I have ever forgiven the Treasury for its actions in this regard. It cost £7 million for Thames Valley Police to investigate that fraud and it was never reimbursed that money. The fine, of about £45 million, went to the Treasury and was deliberately not shared with the police force. Had it been, it would have encouraged and enabled police forces around the country to be more acutely aware and engaged when there was evidence of fraudulent behaviour. Even today, the various companies that were defrauded have not yet been fully compensated. Nearly 14 years on, it has not been resolved. We have two more bodies now involved in trying to clean up that mess.

The other area that leaves me with great concern is that the response I always get when I raise issues around transparency and enforcement in financial services is: "We now have the senior managers regime." I was on the Parliamentary Commission on Banking Standards, which drove a lot of the thinking that led to that regime, but, as we have often discussed in this House, it has been holed below the waterline by decisions of the FCA not to pursue senior executives. We know mostly about Barclays and Jes Staley—who had hired private investigators to track down a whistleblower—being fined but not declared unfit to hold his position. The fine was of a size that was more than made up by the bonuses he received in the following years, so it was pointless.

We have an underlying problem. It is not that the senior managers regime does not do some good—it establishes some procedures and processes—but it focuses on more junior people and does not hold people accountable at the senior level. With Greensill coming into the picture now and triggering a much wider discussion, I very much hope that the Government will take back the message that they have to sit the regulators and the various enforcement bodies down, and work out a way to make this system more effective. They are up against powerful forces and there is inequality of arms, but this industry has to be kept under oversight and control because, when it goes wrong, it takes a large part of our economy with it, as well as creating many individual victims.

Lord Tunnicliffe (Lab) [V]: My Lords, my noble friend Lord Sikka facilitated perhaps one of the most interesting debates in Grand Committee. The amendments raised several important questions about the independence of the FCA, as well as the nature and success, or otherwise, of its past investigations. My noble friend was not happy with the response provided by the Minister last time; nevertheless, I felt that we had a helpful initial response in Committee, with references to legislation that requires FCA action in certain circumstances and allows a Minister to initiate an investigation in others. The response was perhaps a little light on the limits of ministerial power; recent times have shown that the Ministerial Code is not always considered binding. I hope that we will hear more on this later.

Some of the concerns that my noble friends cited related to events preceding the financial crisis, and I wonder whether this is an area where Ministers can go further today. For example, the noble Earl mentioned Section 73 of the Financial Services Act 2012, which imposes a duty on the FCA to investigate in the event of certain regulatory failures. As the measure was introduced after the global crash, it is clearly of no use in shedding light on events that took place before it. However, is he confident that, if some of the instances cited by my noble friend were to happen today, the current legal provisions would be sufficient to trigger an independent investigation?

4 pm

In his final remarks on 10 March, my noble friend Lord Sikka recalled the wishes of many would-be criminals to be prosecuted in the UK on the basis that our enforcement machine is seen as less effective than

[Lord Tunnicliffe]
that of others. My noble friend Lord Eatwell raised that issue in several of his earlier contributions on the Bill. Ultimately, and irrespective of the wording of different amendments, we need to achieve a widespread perception of both independence and effectiveness. This is true not only of the FCA but also of our other financial services regulators and the various enforcement agencies that they work with. If he were here, my noble friend Lord Eatwell would say that there remains some way to go. However, the responses that we received to other amendments in Committee satisfied us that the Treasury understands the challenge and is grappling with it. I hope that my noble friend finds some comfort in the wider discussions we have had and that the Minister can shed more light on the issues of the constraints on ministerial power.

Earl Howe (Con): My Lords, before I respond to this amendment, I would like to express my sadness on behalf of us all at the news of the death of the noble Lord, Lord Judd. Lord Judd took part in our debates on the Bill only just before Easter. He was a Member of this House for some 30 years, a man of great wisdom and wide experience, but above all a man of great kindness, who had an abiding concern for those less fortunate than himself both in this country and across the world. We shall miss him.

Amendment 33 seeks to require the FCA to make a public statement on the nature of any intervention a Minister may make concerning an FCA investigation into an individual firm. The noble Lord, Lord Sikka, made a number of allegations against Ministers, past and present, and the Treasury. I do not have the facts or the briefing to enable me to respond to him today on so many detailed issues. Indeed, I have to say that, for the most part, I did not recognise the picture that he painted. I hope, therefore, that he will allow me to write to him on what he has said, copying in noble Lords speaking in this debate, and in doing so I shall attempt also to address the points made by the noble Baroness, Lady Bennett of Manor Castle. However, I can respond to the issue of principle raised by this amendment, which is what we are here to focus on for the purposes of the Bill.

The House may recall that, in Committee, I outlined the current legislative framework which establishes the FCA as an independent, non-governmental body. In my remarks today, I hope to build on that discussion and reassure noble Lords that this amendment is not necessary. Ministerial intervention in the activities of the FCA, were it to occur, would be one of two things: either legally permitted under existing statute, or illegal. What actions are legally permitted within the legislative framework? Under the framework established by Parliament, the Treasury and hence Ministers have strictly limited powers in relation to the FCA. Indeed, the Treasury's ability to direct or influence the regulators is set out in statute. Most crucially, the Treasury has no general power of direction over the FCA.

The Financial Services Act 2012 sets out the legislative mechanisms through which the Treasury can launch investigations, provided under Section 77 of that Act, which provides a mechanism for the Treasury to direct the FCA to conduct an investigation into events related to a person carrying on a regulated activity. Section 77 was made use of recently, as noble Lords will know, in relation to the regulation of London Capital & Finance, or LCF. Under Section 78, the Treasury can provide direction as to the scope of an investigation, the timeline that it should cover and how it is conducted. So the scope of the powers available to the Treasury is tightly circumscribed by statute. That has to be right, because the ultimate independence of the FCA is vital to its role. Its credibility, authority and value to consumers would be undermined if it were possible for the Government to intervene in its decision-making or ongoing supervision of authorised firms.

As the FCA has acknowledged in its mission statement, Parliament has given the FCA a range of tools in order to deliver its objectives. These tools range from guidance, to censure, to its Section 166 FSMA powers, which allow the FCA to seek the view of an independent third party or "skilled person" on aspects of a regulated firm's activities if it is concerned or wants further analysis. These accompany independent powers for the FCA to make decisions on how to use these tools most effectively. In my remarks in Committee, I did not intend to suggest that the FCA cannot investigate events that occurred before it was created. I merely pointed out that the events being discussed were historical. The FCA can and does look at historical behaviour of the firms that it supervises.

In the context of this amendment, it is necessary to appreciate that the FCA is an independent body and that there are laws which govern and strictly limit the directions that the Treasury can and cannot give it. However, were such directions to be given under Section 77 and 78 of the 2012 Act, I cannot conceive of a situation where Ministers and the Treasury would not make that fact public.

That covers the intervention that is legally permitted; what about nefarious interference? In Committee, the noble Baroness, Lady Kramer, raised the Ministerial Code, as indeed she has today, and asked whether the provisions of the code were applicable in this instance and strong enough in relation to engagement with regulators. I have since written to the noble Baroness on this topic and a copy has indeed been placed in the Library. However, for the benefit of the House I will expand on that now.

The Ministerial Code requires Government Ministers to

"maintain high standards of behaviour and to behave in a way that upholds the highest standards of propriety."

In addition, Ministers must act in accordance with the highest standards as set out in the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. I particularly point to the requirements under the openness principle for Ministers to

"act and take decisions in an open and transparent manner."

I hope that this assures noble Lords that, even if Ministers were tempted to interfere improperly, the Ministerial Code provides the proper protections against this. In short, if a Minister were to attempt it, he or she would simply not get away with it. The right reverend Prelate the Bishop of St Albans in a real sense made my point for me. If anyone has evidence of improper behaviour by Ministers, the regulators or firms, they should of course raise that through the proper channels.

It is not a case of my arguing along the lines of "Trust me—I'm a Minister." I hope that I have demonstrated that the appropriate legislation and the appropriate code and principles of ministerial behaviour are already in place in this space to safeguard against any undue interference as envisaged by this amendment. I hope that this reassures noble Lords that this amendment is simply not necessary, and that the noble Lord is thereby content to withdraw it.

Lord Sikka (Lab) [V]: My Lords, I join the noble Earl, Lord Howe, in expressing sadness at the death of Lord Judd, and send my condolences to all his loved ones.

In her response, the noble Baroness, Lady Neville-Rolfe, raised the interesting point that some matters were confidential and that Ministers or the Government cannot therefore talk about them. There is also a broader issue of parliamentary accountability and public interest, and of being open and accountable, which should always triumph over the pursuit of private interests. I do not think that any of the issues I have spoken about touch upon the position of spy satellites or troop movements and are not, therefore, a real threat to national security. They may be a threat to private arrangements which some elites have negotiated with Governments, but that is another matter.

I am grateful to the noble Earl, Lord Howe, for his detailed explanation. He said that if there is any evidence about ministerial interventions it should be brought to the attention of the proper authorities, but the difficulty is that there is no mechanism by which this intervention is placed on public record. We only become aware of it because of revelations in other cases. In the case of BCCI, which I cited, it was after five and a half years of litigation against the Treasury that I managed to secure a copy of the Sandstorm report. The Government did their utmost to prevent the disclosure of that document, so there simply are no formal channels for any evidence. That means that we can only investigate past events, try to put the bits and pieces together and build up a picture about ministerial interventions.

This issue will remain with us, but one thing we cannot deny is that, even under the FCA's rules and the Ministerial Code, which the Minister cited, the unredacted version of Lord Justice Bingham's report on the Bank of England's supervision of BCCI still remains a secret document. That is really bizarre. The Sandstorm report is on the internet, because I put it there, but as far as the state is concerned it is somehow a secret document.

As I said, this issue is not going to go away. In the post-Covid world there may well be more scandals and more issues. There will, therefore, be more questions about government accountability and interventions. For the time being, I withdraw the amendment, but hope to return to it in the future. I thank noble Lords for their indulgence.

Amendment 33 withdrawn.

The Deputy Speaker (Baroness Fookes) (Con): We now come to the group consisting of Amendment 34. Anyone wishing to press this amendment to a Division must make that clear in debate.

Amendment 34

Moved by ***Lord Sikka***

34: After Clause 40, insert the following new Clause—

"Supervisory Board

(1) There is to be a Supervisory Board to perform the function of monitoring the FCA and PRA.

(2) The Supervisory Board must consist entirely of stakeholders.

(3) Recruitment for the membership of the Supervisory Board is to be conducted through open competition and the appointments are to be confirmed by the House of Commons Treasury Committee, or another relevant House of Commons Select Committee.

(4) The Chancellor of the Exchequer may nominate individuals to the Supervisory Board.

(5) The following are ineligible for appointment to the Supervisory Board—

(a) current and past employees of the FCA and the PRA, and

(b) current employees of organisations supervised by the FCA and the PRA.

(6) A member's membership of the Supervisory Board cannot exceed a period of five years beginning with the day the member's appointment is confirmed under subsection (3).

(7) The Supervisory Board has no responsibility for—

(a) the day-to-day operations of the FCA or the PRA, and

(b) investigations and enforcement of the rules devised by the FCA and the PRA.

(8) The Supervisory Board's functions are to—

(a) provide strategic oversight of the Executive Boards of the FCA and PRA responsible for day-to-day operations;

(b) inquire into the adequacy of resources used and available to the FCA and the PRA;

(c) seek explanations from the Executive Board for reasons for the delay in launching and completing investigations; and

(d) seek explanations from the Executive Board in relation to the efficiency and effectiveness of the FCA and the PRA in discharging their statutory duties.

(9) The Supervisory Board shall have powers to—

(a) demand explanations from the Executive Board on any matter affecting the protection of consumers from harmful practices;

(b) secure information from the Executive Board about their transparency and accountability to the public; and

(c) liaise with whistle-blowers and examine FCA and PRA policies for protecting and rewarding whistle-blowers.

(10) The Supervisory Board must hold open meetings with the Executive Boards of the FCA and the PRA at least once every three months.

(11) The working and background papers of the Supervisory Board must be made publicly available.

(12) The Supervisory Board must lay before each House of Parliament an annual report highlighting matters of concern relating to the operation of the FCA and PRA which it has discovered in exercising its powers and functions.

(13) The Supervisory Board must be consulted on appointment and reappointment of the Chief Executives of the FCA and the PRA."

Member's explanatory statement

The new Clause will create a Supervisory Body for each of the FCA and the PRA. Its function would be to internally monitor the Executive Boards of the FCA and the PRA and provide a diversity of views on the conduct and practices of the FCA and the PRA.

Lord Sikka (Lab) [V]: My Lords, I thank the noble Baroness, Lady Bennett of Manor Castle, and the right reverend Prelate the Bishop of St Albans for supporting this amendment, which seeks to democratise regulators by giving the people a direct say in their governance structure, and thus act as a bulwark against capture by corporate interests. Almost every regulator claims to serve the people, but normal people—as I like to call them, rather than ordinary people— are kept off the boards. This amendment would put people inside the regulatory bodies. The amendment proposes a two-tier board structure for the FCA and the PRA. One tier, the executive board, would be responsible for the day-to-day operations, just as it is today. The second tier, a supervisory board consisting of stakeholders, would exercise oversight of the executive board and its practices. The amendment sketches out the composition and some of the powers, rights and duties of the supervisory board and its modus operandi, which is complete sunshine.

Throughout the debate on the Bill, many noble Lords have expressed concerns about the failures of the FCA. Capture by corporate interests has been identified as a major factor. The colonisation of the FCA and the PRA boards, working parties and committees by corporate interests means that their interests are prioritised and anything threatening is filtered out of consideration altogether. The FCA and the PRA are more likely to have one-to-one meetings with finance industry elites than with the victims of banking frauds or mis-sold financial products, or individuals concerned about the RBS and HBOS frauds and bank forgeries.

4.15 pm

All too often, regulators come from the finance industry and see the issues through the lenses that they have been accustomed to, rather than through the eyes of those are negatively affected by the industry. All too often, regulators return to the industry and they have few incentives to antagonise their potential employers. They have become psychologically standardised and that is the essence of what is often called cognitive capture. In the absence of a diversity of views, organisations remain colonised and are therefore unable to identify possibilities of crisis, so democracy and public accountability are the best ways of tackling corporate capture. With people sharing similar world views, the FCA has become an echo chamber where emerging, and often vital, issues are neglected. This is well noted in Dame Elizabeth Gloster's report on the collapse of London Capital & Finance, which stated:

"The FCA's flawed approach to the Perimeter resulted in LCF being able to use its FCA regulated status to present an unjustified imprimatur of respectability to the market, even in relation to its non-regulated bond business."

A similar pattern has been repeated at Greensill Capital (UK), which was registered with the FCA for anti-money laundering purposes and was not authorised to function as a bank, even though it was effectively lending money. Therefore, the FCA was not required to supervise its wider conduct, apply capital adequacy or stress tests. However, Greensill is part of the $200 trillion a year unregulated shadow banking industry. It gets its resources from investment and retail banks, insurance companies, pension funds and local authorities. Any problems and turbulence in shadow banking has the capacity to infect the entire financial system. The warning signs at Greensill were flashing red last year when three of its major clients—NMC Health, BrightHouse and Agritrade—collapsed, with billions in undisclosed borrowing. Insurance companies also began to withdraw cover or make it more expensive for the provision of supply-chain financing.

Yet that did not ring any alarm bells at the FCA, possibly because of its insular governance structure. Through the presence of diverse stakeholder views, the supervisory board might have asked the executive board to explain how it could safeguard the stability of the financial system when it neglects the impact of shadow banking on the regulated sector or the economy as a whole. It might also have asked questions about accounting for reverse factoring, which has been an issue for decades but has been utterly neglected by the regulators. The presence of stakeholders on regulatory boards changes the dynamics of regulation by empowering them to question executives. No doubt, some would oppose democratisation of regulatory bodies by arguing that finance is a complex issue. That may be, but most major scandals are rarely exposed by experts, even though stakeholders provide plenty of evidence. So why not co-opt them into the governance structures and empower them to hold the executives to account on a day-to-day basis?

Some may claim that the supervisory boards would increase the cost of regulation. That cost would be miniscule—certainly far less than the cost of the last banking crash, the possible shadow banking crisis or the pain suffered by stakeholders in LCF, Blackmore Bond, the Woodford fund and many other headline scandals. I do not intend to divide the House on this amendment, but I believe that we can find a solution together to the capture of the regulators, which is a most pressing issue facing us. I beg to move.

Baroness Neville-Rolfe (Con): I start by sharing the powerful words of my noble friend the Deputy Leader on the sudden loss of the noble Lord, Lord Judd, who contributed so very recently to this Bill and whom I remember well as an effective Minister of State at the FCO when I was a young civil servant. His death is a great loss.

As I understand it, Amendment 34 is designed to improve the culture of the financial services sector—a sentiment that I empathise with—although it would do so by adding an extra layer of regulation through a stakeholder supervisory board. I am against this for the FCA, the PRA and other regulators. I have substantial experience of regulation from my Civil Service past, as an executive and a non-executive of non-financial companies, as a Minister and, currently, as a non-executive of a small bank. In my judgment, adding an extra layer of board members without practical experience could have a perverse and negative effect.

For good outcomes, one needs clear, simple and outcome-based regulation, and company directors who take their responsibilities seriously and promote a good culture, with a focus on customers and protection, on risk and the good use of capital, on fraud and cyber, on the people who operate the business—from the top right down to the bottom—and on innovation and cost control. Above all, one needs directors who will challenge, get into the detail and be listened to.

I have been a non-exec for over 20 years and, until recently, there has not been enough attention paid to, or appreciation of, the challenge function and directors who challenge. Cases such as the HBOS scam, which we have been concerned about today, are the result. This needs to change, in terms of the selection of non-executives and with strong internal challenge in the executive structure of companies. This applies to financial services companies and more broadly.

An extra layer in the form of a supervisory board will not solve the problems of culture that have been highlighted. It risks introducing a further confusion of responsibility. To my mind it is, I am afraid, a bad idea.

Baroness Noakes (Con): My Lords, I am sure that the noble Lord, Lord Sikka, will not be surprised to find that I do not support his Amendment 34. In particular, as a former director of a supervised bank, I do not recognise the regulatory capture that he majored on in Committee and again today. In my experience, the relationships are always challenging and, sometimes, worse than that.

I have two main reasons for opposing the amendment. First, a supervisory board sitting over the top of the existing regulators undermines a fundamental characteristic of regulation in the UK—namely, that regulators are independent. That means that they are independent of government, certainly, and of Parliament and anyone else who thinks that they might have an interest in what they do. They are certainly accountable for delivering against their objectives and expect to be scrutinised by Parliament, but they are autonomous bodies. This amendment runs against that.

Secondly, the regulators already have governance structures that oversee the work that the executives undertake. In the FCA, it is the FCA's own board, which has a chairman and a majority of non-executive directors. I believe that the only executive on the FCA board is, in fact, its chief executive. In the case of the PRA, there is a Prudential Regulation Committee, which has Bank of England executives and outside members, and is chaired by the Governor of the Bank of England. More importantly, in governance terms, as the PRA is part of the Bank of England it is overseen by the Court of the Bank of England, which, again, is a largely non-executive body chaired by a non-executive, although it does have the governor and the deputy governors, including the head of the PRA.

Governance of the regulators is carried out in the way in which governance in the UK is normally done. It covers the very things mentioned in proposed new subsection (8), which is therefore duplicative. If there are concerns, they should be dealt with within the organisations concerned, without writing reports to Parliament. I believe in transparency, but there is a point at which transparency becomes counterproductive, and I am sure that this amendment is way beyond that point.

Accountability to Parliament takes many forms, a key one being the annual reports that are laid before Parliament, setting out the regulators' performance against their objectives, which is required by existing statute. It really is difficult to see what added value this amendment would create.

The amendment is also deficient in a number of respects. Perhaps the most glaring is the reference to the "Executive Board" of the PRA and of the FCA. As far as I am aware, there is no such thing specified in legislation or the governance arrangements of either body. I believe that each regulator has an executive committee or equivalent, but they do not have an "Executive Board", with a capital "E" and a capital "B".

The amendment would require the exclusion from the supervisory board of anyone who might actually understand what the PRA and the FCA actually do. Proposed new subsection (5) would disqualify "current and past employees" not just of the FCA and the PRA but of any organisation that they supervise. I have never thought that ignorance was a good qualification to be a member of a board.

Proposed new subsection (10) talks about "open meetings" but does not explain what that means in practice. Proposed new subsection (11) says that all the supervisory boards papers must "be made publicly available", but it seems to pay no heed to the need for confidentiality or data protection. I could go on. These are unnecessary and ill-thought-out proposals, and I hope that my noble friend the Minister will not accept them.

The Lord Bishop of St Albans [V]: My Lords, I will speak in support of Amendment 34, in the name of the noble Lord, Lord Sikka, which is an interesting contribution to the question of governance. I am keen that we find any ways that we can to speak into those organisational cultures that every industry adopts and promotes, and which sometimes lead to groupthink.

There are times when it takes someone from the outside to ask intelligent questions. I am reminded of Her Majesty the Queen asking the Bank of England why there had been a financial crash back in 2008, when many people in the industry, who were paid extraordinary amounts of money because of their supposed expertise, had not spotted that it was coming. I do not think that this is about inviting people who are ignorant to come on to boards; this is a question about whether there is a wider contribution that might be very useful and of help to thinking about issues of governance responsibility.

I will comment briefly on a further development in the FCA's investigation into car finance, which I have referred to in the House in the past. Since the FCA introduced its new rules banning discretionary commission models in January 2021 and subsequently closed its investigations into Lookers, the car dealership firm, for possible mis-selling, it was revealed that the UK's accounting watchdog, the Financial Reporting Council, was investigating accounting giant Deloitte for its role in auditing the very same Lookers that the FCA had

[The Lord Bishop of St Albans]
only just ended its investigation into a few weeks earlier. The FCA never confirmed or dismissed whether there had been any mis-selling, remarking that it had made its concerns clear and did not intend to impose penalties on this FTSE 250 firm. However, the opening of a new investigation relating to Lookers raises questions about the thoroughness of the original FCA investigation: were all aspects investigated?

4.30 pm

The introduction of a supervisory board with the statutory functions set out by this amendment—able to scrutinise the FCA and PRA's decisions where it is reasonable to seek an explanation, such as in the case of Lookers—is an interesting idea that we ought to think about. This would not only strengthen accountability but provide the FCA with a chance to explain its responses and relay any concerns, whether they are structural or to do with resourcing. Where its investigations are delayed or prematurely completed without any subsequent action, the danger is that some may be tempted to think something is being hidden.

The FCA has been criticised during these proceedings and some of those criticisms have been justified. Other Members of the House have pointed out that this is a huge area, where there will always be some problems and they are to be expected. However, a lack of regular communication between the FCA and parliamentarians certainly does not help. If there are internal problems in the FCA that contribute to what some feel is a lack of enforcement, I am sure they and many others would be interested in hearing about this.

Through the annual report provided by this supervisory body, a better understanding of the problems within the FCA, and justifications where action has not been taken, could be facilitated. This would lead to more robust and accountable financial service regulators. This amendment, with its limited oversight and non-interference in running operations, could refine our financial services regulators over time to better undertake their functions and enhance communications between them and parliamentarians.

Any efforts to increase transparency and accountability are always welcome. I hope that the Government will reflect on this short debate and, if these are not the particular ways to enhance our financial regulators, come up with other ideas and resources so that we can work out how to be more effective in this vital area as we look to build a national and international reputation for these services.

Viscount Trenchard (Con) [V]: My Lords, I declare my interests in financial services businesses, as stated in the register. I would also like to record my sadness and offer my sincere condolences at the passing of both the noble Lord, Lord Dubs, and the noble Baroness, Lady Williams. Both made an enormous contribution to your Lordships' House over very many years and will be much missed on all sides of the House.

It is a great pleasure to follow the right reverend Prelate the Bishop of St Albans. We agree on so much, but on this question and this amendment I have to take a slightly different view from his. The noble Lord, Lord Sikka, has brought back Amendment 34, substantially in the same form as his Amendment 120 in Committee.

The drafting of the amendment suggests that it is intended that there should be a single supervisory board of both regulators, the FCA and PRA. The Member's explanatory statement on the other hand states:

"The new Clause will create a Supervisory Body for each of the FCA and the PRA."

This implies one supervisory board for each of two regulators. That at least makes more sense than a single supervisory board for the two separate regulators, which is an impossible concept, as I pointed out on 10 March.

As the FCA and PRA are not the same organisation—although I sometimes wish they were—each has its own executive board. In the case of the FCA, this is the FCA board. However, the PRA board was replaced four years ago on 1 March 2017 by the Prudential Regulation Committee and the PRA was absorbed into the single legal entity of the Bank of England. I pointed this out to the noble Lord on 10 March, but he has not altered his approach. My noble friend Lady Noakes has also explained these fundamental errors clearly. A supervisory board such as he proposes, charged with exercising oversight over the board of the FCA and the Prudential Regulation Committee of the Bank of England, could not be a single entity. It would have to have two distinct personae, one within the FCA and one within the Bank of England.

My noble friend Lord Howe explained to the noble Lord that both the FCA and PRA must already

"attend … hearings before parliamentary committees, and those committees may also hear evidence from stakeholders about the performance of the regulators."

He said:

"Parliamentary committees of both Houses are also able to summon the regulators to give evidence whenever they may choose."

He added,

"the Treasury already has the capacity to order independent reviews into the regulators' economy, efficiency and effectiveness. Therefore, all told, the amendment would result in a duplication of existing opportunities for scrutiny and oversight of the regulators' resourcing."

As I said on 10 March:

"I do not think that such a supervisory board would replace the need for parliamentary scrutiny of the regulators, which will in itself provide appropriate transparency and accountability, rather than the completely crushing, destructive oversight that I believe the noble Lord's new board would cause."

The noble Lord said that his new board would

"not duplicate in any way whatever what any parliamentary committee or review board might do. The supervisory board would simply be engaged in day-to-day strategic oversight. Those people would be in the organisation on a permanent basis, observing, requiring reports, making recommendations".—[*Official Report*, 10/3/21; cols. GC 723-26.]

Such an advisory board would seriously and negatively impact the operation of the regulators.

The noble Lord has said that he will not press his amendment, which I think is a wise decision because I believe your Lordships would have rejected it as unworkable, impractical and likely to have a negative

impact on the attractiveness of our financial markets which provide so many jobs and a large slice of the country's tax revenues.

Baroness Kramer (LD): I suspect that the noble Viscount, Lord Trenchard, was referring to the loss of the noble Lord, Lord Judd, which was just announced, rather than the noble Lord, Lord Dubs. I join with him; I am still feeling slightly in shock, frankly, at the news. We have all lost too many people of significance to this House over this last year. I think we all want to pay tribute to all of them, but we are all struggling a little with some of the very significant people who will not be here for future debates.

On this amendment, I will speak briefly. I understand where some of the thinking of the noble Lord, Lord Sikka, is coming from, but I cannot say that I see a supervisory board as the answer to the issue he raises. I am much more taken with the proposal made by my noble friend Lady Bowles in Committee, for an expert body—it takes experts to really understand how the regulator functions—regularly to follow the Australian model and review the regulators. This could be every three years; the number of years is not exactly the key issue. It would not second-guess the decisions the regulators have made but look at operations, resources and effectiveness. With the regulator now so detached in many ways, that is essential.

I would want the Treasury to be a good distance from anything like this because, like it or not, the Treasury will always be seen as an influencer of decision-making. An expert view is needed to help us ensure that our regulators are functioning in the way that they need to, given the enormous challenges and responsibilities that they have. With that, I have to say that I cannot support this amendment.

Lord Tunnicliffe (Lab) [V]: My Lords, I am grateful to my noble friend Lord Sikka for bringing back this amendment. In Grand Committee, it was discussed in the context of our wider debates on parliamentary scrutiny and the financial services regulators. My noble friend was not content with this, and while I believe that there is a degree of overlap, I accept the point that his amendment focuses on detailed day-to-day oversights rather than taking what some might call a "helicopter view".

In his previous response, the Minister indicated that supervisory bodies are not necessary because of the various panels that must be consulted by the PRA and the FCA as they fulfil their duties. However, while these panels undertake valuable work, the extent to which the regulators take their views on board is unclear; for example, I sense that the FCA's consumer panel would take a very different view on the duty-of-care amendment passed on day 1 from the positions taken by both the Treasury and the FCA.

The Minister also pointed to the future regulatory framework review as the correct vehicle for taking this issue forward. I have some sympathy with that view: I will be very surprised if the review endorses the status quo. If it does, we have had assurances that there will be further primary legislation and that means further opportunities for my noble friend to pursue this initiative.

Earl Howe (Con): My Lords, the Government agree that effective oversight of the FCA and PRA is a crucial component of our regulatory framework. The Government also agree that having a diverse range of independent views in such an oversight regime is key to its success. However, as I have touched on previously, a number of mechanisms already exist to ensure effective independent oversight of the regulators by a diverse range of stakeholders. I believe these are sufficient and I do not propose to go into them in detail here, given our other debates on Report. However, I know from our previous debate in Committee, and from what he has said today, that the noble Lord, Lord Sikka, is seeking particularly to address potential issues arising from so-called regulatory capture and groupthink with his amendment.

Regulatory capture becomes a risk in situations where regulators do not have the views of others—particularly stakeholders—to influence their work. I assure the noble Lord that there are already extensive arrangements in place to allow a wide range of stakeholders to contribute their views to influence the regulators' work. There are also arrangements in place to provide effective scrutiny of the regulators and to require them to explain their actions; for example, both the FCA and PRA are required under the Financial Services and Markets Act 2000 to consult independent panels on the impact of their work, as the noble Lord, Lord Tunnicliffe, has just mentioned. For the PRA, this involves consulting an independent practitioner panel of industry representatives, while the FCA must consult four different statutory panels. These four panels are: the consumer panel, the practitioner panel, the smaller business practitioner panel and the markets practitioner panel. The FCA considers the views of each of these panels, as appropriate, when developing policies and making regulatory interventions.

I point to the work of the FCA's consumer panel in particular. This panel meets twice a month to advise and challenge the FCA from the earliest stage of policy development, and to bring to the FCA's attention broader issues for consumers. This ensures that different perspectives on how the FCA should take forward its consumer protection objective can be taken into account. The FCA board receives a report on the panel's work each month, which helps to inform the FCA's rule-making and policy development. Through the panel's annual report, press releases and public statements, the consumer panel can publicly hold the FCA to account, enhancing transparency and reducing the risk of regulatory silence or capture. Furthermore, the regulators are already under a statutory obligation to organise and publish the results of their public consultations. These consultations allow interested parties—including financial services firms, but also consumer organisations and members of the public—to make representations on issues such as proposed new rules.

4.45 pm

Other elements of the amendment also duplicate existing arrangements. The regulators' annual reports to the Treasury already allow for oversight by stakeholders of the boards' activities. These reports provide analysis of how the regulators have discharged their functions and advanced their objectives, and are published and

[Earl Howe]
laid before Parliament for interested parties to examine. This is not to suggest that the Government or the FCA are complacent about the need to continue to focus on high-quality regulation and supervision.

The noble Lord, Lord Sikka, mentioned LCF and the investigation by Dame Elizabeth Gloster. I welcome the FCA's apology to LCF's bondholders and fully support the changes that the FCA has made to date in response to Dame Elizabeth's recommendations. I am confident that its ongoing transformation programme is the right next step to further improving the FCA's approach to regulation. Consumers can take confidence from the comprehensive plan that the FCA has put in place to address Dame Elizabeth's recommendations and continue its ongoing programme of reform. The FCA has committed to issuing regular public updates on progress and the Government will also be closely monitoring the FCA's progress in implementing the recommendations. Therefore, Dame Elizabeth's report and the FCA's response demonstrate that the current arrangements for addressing any failures are working as intended.

The amendment proposes that the supervisory board should have the power to inquire into the adequacy of resources used by and available to the FCA and the PRA. On that point, I emphasise that the Treasury already has the statutory power under FiSMA to order an independent person to conduct a review of the economy, efficiency and effectiveness with which the regulators have used their resources in discharging their functions. Furthermore, the National Audit Office undertakes annual reviews of the regulators' accounts, which are laid before Parliament. This provides ample opportunity to scrutinise the adequacy of resources used by the regulators. The FCA is already required to organise annual public meetings, where stakeholders and members of the public can question the chair and members of the board, thereby openly holding them to account.

The amendment also proposes that the FCA and PRA be required to attend hearings in front of a supervisory board. Here, again, I remind the House that they must already attend such hearings before parliamentary committees. Parliament is well placed to ensure that these hearings focus on the most vital areas. The FCA, for example, must attend general accountability hearings before the Treasury Select Committee twice a year. The PRA must appear before that committee after the publication of its annual report. In addition to these regular hearings, as I have stated previously, parliamentary committees of both Houses are able to summon the regulators to give evidence on an ad hoc basis. Requiring the regulators to also attend regular hearings before a supervisory board would therefore be unnecessarily burdensome; it would not substantively enhance our current oversight regime. Therefore, given the existing processes that I have just set out, which already offer ample opportunity for independent supervision of the regulators, I hope the noble Lord will consider withdrawing this amendment.

Lord Sikka (Lab) [V]: My Lords, I thank everyone for their contributions and deep insights. As I listened to the noble Baronesses, Lady Neville-Rolfe and Lady Noakes, I was briefly reminded of the historical development of the role of the non-executive director, which became popular after the 1973 US crash due to fraud at the Equity Funding Corporation. After that, audit committees staffed by non-executive directors became mandatory for companies listed on the New York Stock Exchange.

However, if you look at the history from about 50 years before that you will find non-executive directors frequently described as inexperienced, lacking in technical knowledge and not knowing enough about business. How could they really invigilate boards of directors in 15 to 20 hours a year? It is strange that so many years after non-executive directors were established we are now hearing the same kinds of points being made against the involvement of stakeholders in the governance of regulatory bodies.

To my mind, democratisation of regulatory bodies is essential. Periodic scrutiny by parliamentary committees is not a substitute for the real-time involvement of stakeholders and their oversight of the executive board. I have listened to all the arguments carefully and will withdraw the amendment; no doubt, I will refine it and return to it at some time in the future.

Amendment 34 withdrawn.

Amendment 35 not moved.

The Deputy Speaker (Baroness Fookes) (Con): We now come to the group consisting of Amendment 36. Anyone wishing to press this amendment to a Division must make that clear in debate. I call the noble Baroness, Lady Bennett of Manor Castle.

Amendment 36

Moved by ***Baroness Bennett of Manor Castle***

36: After Clause 40, insert the following new Clause—

"UK Finance Watch

(1) A body corporate called UK Finance Watch is established.

(2) The purpose of UK Finance Watch is to provide oversight of—

(a) the United Kingdom's financial services industry,

(b) its impacts on the real economy, and

(c) all associated regulations.

(3) The PRA and FCA must fund the activities of UK Finance Watch.

(4) UK Finance Watch must produce reports on the following matters—

(a) proposed changes in financial legislation and regulations;

(b) deficiencies identified in retained EU law relating to financial regulation;

(c) any other issue relating to financial markets and the financial services sector which, in the opinion of UK Finance Watch, threatens the stability and prosperity of the economy of the United Kingdom.

(5) The Treasury, PRA and FCA must have regard to any publication produced by UK Finance Watch.

(6) The Chancellor of the Exchequer must appoint members to UK Finance Watch.

(7) When appointing members to UK Finance Watch, the Chancellor of the Exchequer must have regard to the desirability of appointing members who, between them, have expertise in—

(a) academia;

(b) accounting;

(c) law;

(d) climate, biodiversity and the environment;

(e) trade unions.

(8) UK Finance Watch may appoint officers and staff to assist their functions."

Baroness Bennett of Manor Castle (GP) [V]: My Lords, before moving the amendment, I join the noble Earl, Lord Howe, the noble Lord, Lord Sikka, and the noble Baroness, Lady Kramer, in expressing my sadness at the death of the noble Lord, Lord Judd. I send my condolences to his family. The noble Lord, Lord Judd, was the first person to ask me a question while I was in the middle of delivering a speech in your Lordships' House and did so in his characteristically kind and generous manner. It was a good lesson—perhaps intentionally so—for a newbie.

In light of our time-truncated debate in Committee, Amendment 36 in my name, also backed, kindly, by the noble Lord, Lord Sikka, is a somewhat adapted version of the amendment that I presented there. It would create a UK equivalent of the EU's Finance Watch. I have chosen at this time to use this name for clarity as well as pronounceability.

I really must thank the noble Lord, Lord Eatwell, who made the case for this amendment—intentionally or not, I am not sure—in our previous session on Report. He suggested that there were flaws in my Amendment 37, criticisms with which I would not necessarily disagree. He said the amendment

"asks the FCA and the PRA to—to use a phrase that has become popular today—mark their own homework. They are not really the right people to assess themselves; there are plenty of research institutes around this country that do a first-class job of assessing exactly these issues. However, we have not brought them together very well."—[*Official Report*, 14/4/21; cols. 1425-26.]

I highlight the last sentence in particular because bringing together expertise, knowledge and analysis is exactly what "UK Finance Watch" would be designed to achieve—to bring together the undoubtedly wide range of expertise around the country to provide independent technical advice to enable Members of your Lordships' House and the other place to contribute to public debate.

I set out in Committee and in briefings circulated before the Committee debate a detailed explanation of what the comparable EU body has achieved, and I will not repeat that here; nor will I repeat comments I made then about the thinness of the scrutiny of this Bill by your Lordships' House, except to repeat that that is not a criticism of those here but rather a call for many more Peers to be engaged. The financial sector impacts on every aspect of modern life. We live in a financialised society, whether it is hedge fund ownership of care homes, water supplies or the PFI contracts and their successors doing such damage to our schools and hospitals. Peers who are experts in these areas have interests in these areas and many other Peers from all aspects of society need to be engaged in debates on financial Bills. But that is clearly not customary and could easily be daunting.

However, there is a need for a co-ordinated independent source of information, expertise and detailed knowledge that can, in some way, match the lobbying firepower and influence. I have in mind here the position of remembrancer, to empower Peers concerned with every aspect of society in overseeing the impact of the financial services laws and regulations that are so crucial. This would help the House obtain the complete picture that I was calling for in the amendment last week.

I thank the noble Baroness, Lady Kramer, for her comments in that debate. She said that

"one of the big questions that has never been answered is: how does our financial services industry impact on the real economy, in contrast to something much more circular within the financial services economy?"—[*Official Report*, 14/4/21; col. 1425.]

She has entirely identified what I was seeking to do with that amendment. This amendment would not, as drafted, achieve that aim, being focused on ensuring the quality and effectiveness of legislation and regulation. However, when I put the words of noble Baroness, Lady Kramer, and the noble Lord, Lord Eatwell, together, if UK Finance Watch proved to be a network, a clearing house—as the noble Baroness, Lady Kramer, suggested it could be in our debate in Committee on a similar amendment—of the information that the noble Lord, Lord Eatwell, referred to, then we would have made real progress in the oversight and public legislative understanding of what is currently a far too opaque and little-understood area. As the right reverend Prelate the Bishop of St Albans said earlier, we need far more people asking questions about the financial sector from the outside, but they need help to be able to do that effectively.

I feel that the noble Baroness, Lady Kramer, made the arguments for me but I note that Greensill is just the latest brand name for which the UK financial sector will be famous—or infamous. I hope this model being based on one in the EU does not prejudice noble Lords or, indeed, the Government against it. Being world leading surely means looking around the world, seeing best practice and copying it.

It is not my intention to divide the House on this amendment. The oversight and scrutiny of regulation and laws for our financial sector is clearly an ongoing debate of considerable concern to a wide range of Members of your Lordships' House. I beg to move.

Baroness Noakes (Con): My Lords, we simply do not need another body set up to look at the financial services industry. It is already in effect a core function of the Treasury and if the Treasury thought that it needed some help in identifying the issues that the proposer of this amendment identifies, it does not need the cover of primary legislation to set one up. In addition, Parliament itself has always taken a keen interest in the financial services industry. The long-standing Treasury Select Committee of the other place examines regulators as well as key emerging themes in relation to financial services and your Lordships' House has recently created an Industry and Regulators Committee, which is having its first meeting as we speak. Indeed, the noble Lord, Lord Eatwell, the noble Baroness, Lady Bowles of Berkhamsted, my noble friend Lord Blackwell and I are members of the new committee. Therefore, it should not surprise the House if in due course there is a focus on matters relating to the financial services sector.

[Baroness Noakes]

I suspect that the subtext of this amendment is a belief that the financial services sector is wicked and has a negative impact on the UK economy. I do not believe that belief is widely shared in your Lordships' House. On the other hand, there are few—if any—Members of your Lordships' House who think that the financial services sector is perfect, and that includes me. The important point is that we already have the scrutiny mechanisms that I have described to give a proper focus to the activities and the impact of the financial services sector. I agree with the noble Baroness, Lady Bennett of Manor Castle, that this amendment should not be pressed to a vote.

Lord Sikka (Lab) [V]: My Lords, it is always a pleasure to speak after the noble Baroness, Lady Bennett of Manor Castle. The key issue, which has been touched on by a number of speakers, has been how to secure effective, responsible and accountable regulation. This amendment presents another model. We have already heard about a number of models.

Numerous aspects of life have been financialised, and the finance industry affects every household and almost every walk of life—all the more reason to examine its effects on the economy and daily life. The last 50 years have been littered with examples of mis-sold financial products. We have had a banking crisis in every decade since the 1970s, but still the finance lobby is too powerful for Governments to resist. We need structures and policies that can mitigate the negative effects of the finance industry.

5 pm

Amendment 36 invites us to think about the consequences of what is now popularly known as the finance curse. We have already seen how former Prime Ministers and other legislators are recruited by the finance industry to do its bidding in Parliament and advance its interests; and the Treasury officials jump to it. This has a corrosive effect on democracy and other industries, as they too are persuaded to join the arms race and hire former ministers and current legislators for their cause.

The finance industry's false narratives of competitiveness and light-touch regulation need to be critically scrutinised. They certainly delivered the last banking crash. The resulting never-ending austerity should again encourage reflections on the claims that an oversized finance industry can somehow deliver long-term jobs and wealth creation. Of course we all need financial services—bank accounts, debt and credit cards, insurances, pensions and much more. But we can certainly do without much of its speculative and destructive practices. That is why the amendment calls for assessment of the impact of the finance industry on the real economy

Education and good citizenship are other casualties of the march of the finance industry. Thirty years ago, many UK universities delivered degrees in science, engineering and mathematics. Today, with the expansion of the finance industry, that number has shrunk. Almost all offer degrees in accounting and finance, which make shareholders the primary focus of corporate decisions. We all know that shareholder-centric and capital market-centric approaches lead to deep distortions in the measurement of business performance and the culture of its people and services. Look at any corporate fraud: it will tell a story. Organised tax avoidance and illicit financial flows have become central to the finance industry and continue to destabilise societies.

One consequence of the finance curse is that we have ended up with nearly 375,000—probably more—professionally qualified accountants, the highest number per capita in the world. Yet we have scarcity of good corporate accounts and effective audits, and plenty of financial and accounting scandals. Just think of the number of graduates who have gone into accounting and finance rather than into more productive sectors of the economy. That cannot be good for the future of our country. Finance has to be the servant, not the master, of the economy. That is exactly what this amendment seeks to deliver.

This amendment is one of a number of proposals that seek to promote a responsible finance industry. That task cannot be undertaken by the finance industry itself and necessarily involves stakeholders hitherto ignored. I support this amendment.

Baroness Kramer (LD): My Lords, I think we may end up coming to something like a UK Finance Watch, but I hope not, because I hope Parliament will step up to the plate. The kind of issues described here ought to be part of parliamentary accountability, but that will take support from significant expertise that I do not think currently exists for many of the committees we operate. This is such an important industry; it is so huge, complex and powerful. That specialist knowledge will be necessary.

I was on the Parliamentary Commission on Banking Standards, and it is fair to say that the noble Lord, Lord Tyrie, then in the Commons and chair of that commission, had to beg and borrow to find the staff we needed to support that commission. It was scratched together probably with the minimum number of staff with which it could have operated. We were so lucky; we had brilliant people totally dedicated and working the most ridiculous hours. That commission was a good demonstration of how we often underresource around critical issues. That is going to have to be remedied.

I hope Parliament, as it works out how it is going to manage this process of accountability, will take all that on board, so we will come back and look at this amendment for UK Finance Watch and see that a lot of what it proposes has been ticked off as "satisfactory," because it has been embedded in the support and expertise that will be provided to Parliament. But anyone who thinks that two meetings a year with the Treasury Select Committee, and ad-hoc meetings on whatever happens to be the issue of the day, is anything close to satisfactory, and anyone who thinks that the annual report—never one of the most informative documents from any organisation—is accountability, completely misunderstands the animal with which we are now dealing.

I hope we will not have to go back and resort to an equivalent to the EU Finance Watch body. We may have to, but I would almost regard that as a mark of failure by this House and the other place. Our committees that look at these issues are going to need to be resourced and provided with the real expertise that

they need to deal with both the quantity and the quality of the investigation and challenge that they will have to undertake.

Lord Tunnicliffe (Lab) [V]: My Lords, the noble Baroness, Lady Bennett, gave us fair warning that she was likely to bring an amendment back on Report for further debate, which is reasonable given the time constraint we faced in Grand Committee. As with the amendment of the noble Lord, Lord Sikka, we agree that implementing the right forms of oversight is of utmost importance. In Committee, several speakers mentioned the potentially valuable contributions to policy debates that could come from academics, think tanks and others, if they only had access to the data they needed. We agree that more must be done to facilitate such research, and I hope the Minister will say something on this.

The noble Baroness's redrafting of her amendment addresses some of the points raised in the previous debate. However, her original pitch was for

"a network, not reinventing the wheel, not creating a whole new institution."—[*Official Report*, 10/3/21; col. GC 735.]

Yet Amendment 124 from Committee and today's Amendment 36 would create a whole new institution. I believe that the comments from the noble Baroness, Lady Kramer, bear consideration. Surely the first thing we should do is to make sure that this role is fully taken up by Parliament. We have already established, informally at least, that much more scrutiny of how the FCA and the PRA work will be necessary, and I look forward to how well Parliament reacts to this challenge. It is also important to recognise that resources may be needed to give parliamentary scrutiny the expertise necessary in this complex area.

One area that interests me is the impact of the financial services sector on the real economy. We are all familiar with the arguments advanced by the Minister last time on jobs, tax take and so on, and colleagues will remember that I reflected on the successes of the sector at Second Reading. However, as the UK comes out of the pandemic and as government support schemes begin to disappear, we will need to monitor the extent to which lenders continue to support business expansion and other aspects of the economy. This brings us back to the point about ensuring the availability of data.

Earl Howe (Con): My Lords, as I set out in our earlier debate, the Government agree that effective oversight of the regulation of our financial services sector and consultation with a diverse range of stakeholders are crucial to the sector's ongoing success. As we have discussed previously, Parliament has a unique role to play in that oversight function.

In that context, I will set out the existing mechanisms that ensure effective independent oversight of the sector and its regulation by a diverse range of stakeholders. I will not repeat my previous remarks on the regulators' arrangements for publishing consultations and the manifold ways in which they are already held to account by various panels and Select Committees.

I understand that this amendment is partly inspired by Finance Watch in the EU, an organisation which conducts research, monitors financial services legislation inside the EU and advocates on financial services issues. As the noble Baroness indicates in her amendment, we do not have a body in this country that performs an equivalent role; were we to have one, I imagine it would be made up of industry stakeholders of various kinds. As noble Lords will know, parliamentary committees can and do seek input from a wide variety of experts. In doing so, they can bring together the existing expertise of academics, think tanks and industry stakeholders.

Nothing prevents the creation of such a body in this country without a legislative basis; indeed, the EU organisation was not created by EU law but was simply set up as a non-profit organisation under Belgian law. It is funded by a combination of contributions from its members and philanthropic foundations and grant funding from the EU, for which the group has to bid.

The Government and the regulators regularly consult on their plans and proposals, and interested parties, including those from the backgrounds set out in this amendment, are free to respond. The Government and regulators consider all responses to such consultations carefully and consider how the views expressed should influence final policies and rules. I am concerned that this amendment would therefore duplicate existing practices in a very real sense.

In addition, it would appear to duplicate the work carried out by the Financial Policy Committee of the Bank of England. The FPC acts as the UK's macroprudential authority; it identifies, monitors and acts to remove or reduce systemic risks to the UK financial system. It may make recommendations to the Treasury, the FCA and the PRA, and is required to publish a financial stability report twice a year setting out its view of the outlook for UK financial stability, including its assessment of the resilience of the UK financial system and the main risks to UK financial stability.

Given this, and the existing processes that I have set out in previous debates today that offer ample means for achieving the outcomes sought by this amendment, I hope the noble Baroness will feel able to withdraw it.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I thank the Minister for his response and all noble Lords who have taken part in this debate.

The noble Baroness, Lady Noakes, suggested that what this amendment covers is actually a core function of the Treasury. That is very much not the case. The Treasury is the definition of the establishment, part of the Government; this is an outside, independent oversight body. She also said that Parliament takes a keen interest in financial regulation. That conclusion can be questioned by looking down the lists of speakers through the progress of this Bill and contrasting them to the lists of speakers for, for example, the Domestic Abuse Bill.

5.15 pm

The noble Baroness, Lady Noakes, also said that we can see the current model working out. As the noble Lord, Lord Sikka, powerfully pointed out, we very much can. One of the big issues is the revolving door between business and government. It goes well beyond the financial sector, but it is particularly an issue there. Far too many stakeholders in the financial sector are

[Baroness Bennett of Manor Castle]
ignored—not so much not having access to that revolving door, not quite even on the other side of the street, but more in an entirely different suburb altogether. She also questioned the negative impact of the financial sector on the UK economy, saying that that view might not be widely shared in this House. I agree with that, but there are multiple global studies which have their own label for "too much finance" literature, which is extensive and wide-ranging and comes from highly respected sources.

I again thank the noble Baroness, Lady Kramer, for her very useful and helpful contribution, and her reflections on her experience with the Parliamentary Commission on Banking Standards, having to beg and borrow to find staff. We clearly need a continuous, continuing structure, with staff having time to develop expertise over years or even decades, not an occasional, ad hoc arrangement—a point the noble Baroness went a long way towards making, although I very much agree with her focus on the need for more parliamentary resources.

I thank the noble Lord, Lord Tunnicliffe, for stressing the need to strengthen research and for his understanding of and detailed attention to the process of this amendment. Like the noble Lord, Lord Sikka, he reflected on the impact of the financial sector on the real economy, something we have made real progress in highlighting in the debates on this Bill.

The Minister pointed to our current procedures and outlined them very clearly. However, given our current state, I respectfully submit that any suggestion that these are adequate does not stand up. He noted that the EU Finance Watch was set up on a network, mixed-funding kind of model; indeed, but it was EU funding that got the ball rolling—I know quite a bit about this, as the European Greens were at the forefront. He suggested that we have universities and institutions, think tanks and granting bodies that might create something like this off their own bat. I suggest that, in the age of austerity, with our universities struggling with their current financial model, we simply do not have the resources available in the UK for that to happen. He also referred to the role of the FPC in macroeconomic oversight. I would see Finance Watch covering those kinds of issues, but also getting deep into the weeds of detail, which I do not believe that the FPC does.

None the less, we have had very useful debates through this Bill's progress. We may not have made legislative progress, but I hope we are highlighting these issues for a broader range of people and drawing them to the attention of a broader range of stakeholders. I very much hope that, in future finance Bills, we will see a much broader range of stakeholders and Members of your Lordships' House engaged in these debates. In the meantime, I beg leave to withdraw the amendment.

Amendment 36 withdrawn.

Amendments 37 to 37C not moved.

The Deputy Speaker (Lord Haskel) (Lab): We now come to the group beginning with Amendment 37D. Anyone wishing to press this or anything else in this group to a Division must make that clear in debate.

Amendment 37D

Moved by ***Lord Holmes of Richmond***

37D: After Clause 40, insert the following new Clause—

"Payment services and the provision of cash

In Part 2 of Schedule 1 to the Payment Services Regulations (S.I. 2017/752) (activities which do not constitute payment services), after paragraph 2 insert—

"3_(1) The provision of cash otherwise than through an automatic teller machine does not constitute a payment service where—

(a) there is a transfer of a corresponding amount from a payment account held by the recipient of the cash to a relevant person, and

(b) the payment account is not provided by a relevant person.

(2) In sub-paragraph (1), "relevant person" means—

(a) where the cash is provided by a person ("P1") through one or more persons acting on P1's behalf, P1 and each person acting (directly or indirectly) on P1's behalf;

(b) where the cash is provided by a person ("P2") otherwise than on behalf of another person or through one or more persons acting on P2's behalf, P2.

(3) The execution of the transfer referred to in sub-paragraph (1)(a), and other services enabling that transfer, are not excluded from the meaning of payment services by this paragraph.""

Member's explanatory statement

This amendment provides that, in certain circumstances, the provision of cash does not constitute a "payment service" for the purposes of the Payment Services Regulations 2017. Persons would no longer have to be authorised by, or registered with, the FCA in order to provide that service.

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to speak to these amendments, both of which are in my name. In doing so, I declare my financial services interests as set out in the register. I will move also Amendment 40A when we get to that stage.

I thank my noble friend the Minister for the way that he has engaged not just on this amendment but across the whole of the Financial Services Bill. Indeed, I thank the whole ministerial team and all Treasury officials for having numerous meetings with myself and other noble Lords. It has been the model of how to progress legislation through your Lordships' House.

There is a very simple and, I hope, clear purpose at the heart of the amendments: to enable cashback without a purchase. As with so many other areas of our lives, Covid has had a dramatic impact on cash usage across the United Kingdom, which has been divergent across different nations, regions, socioeconomic groups and people with different protected characteristics. If cash is no longer king, to millions across the UK it is certainly still more than material. It is beholden on all of us to ensure that people have a right to rely on cash and that a network exists across the country where they can reasonably access it. ATM withdrawals have dropped by over 50% since 2019. We have to look to other resources, other things that we have across the country where individuals and small businesses can access cash. That is the purpose of my Amendment 37D.

Currently, it is possible to get cashback with a purchase and, under the Payment Services Regulations, it is not possible to get cashback without a purchase. This amendment would change that, enabling cashback without a purchase and taking it away from what would be considered a payment service under the PSR 2017. The amendment has wider implications, I hope, than just the ability to access cash. It speaks to well-being, social isolation and a real sense of community, and to using the resources that currently exist far more efficiently and effectively for the benefit of all. In 2019 there were 123 million cashback with purchase transactions. Clearly, there is huge potential for cashback without purchase if we pass the amendment this evening.

The amendment is drawn in a deliberately permissive way to enable innovation. For example, if a fintech wanted to offer a service across a number of locations on behalf of those locations, the amendment would enable it to. Similarly, if a rural café wanted to offer cashback without a purchase on its own behalf, the amendment would enable it to.

We have seen such dramatic changes in the use of cash in recent years, heavily accelerated by the Covid crisis, yet cash still matters. If we do not act, the network that supports cash could disappear in a trice, or become inordinately expensive and leave millions of people without access to cash and, through that, to social inclusion, financial inclusion and an ability to play the part that they have a right to in our society.

Amendment 40A merely enables the regulation to come in two months after the passage of the Bill to give a reasonable period post passage.

I hope that Amendment 37D is clear and that it achieves what it seeks to: enabling cashback without a transaction for millions across the country. I believe it is good for individuals, financial inclusion, business and the high street. Cashback without a transaction could enable part of our Covid build back. I beg to move.

Lord Hunt of Wirral (Con): My Lords, I again draw attention to my interests as set out in the register, particularly as an independent non-executive director of LINK.

In speaking to an earlier amendment, I touched on the challenges of financial exclusion. The problem is complex and the answer, in so far as there is one, is never going to be simple. However, I congratulate my noble friend Lord Holmes of Richmond, particularly on his vision in seeing a way to at least meet the problem that he so clearly set out. I welcome word that the Government propose to act along the lines set out in this amendment and the subsequent one to help create greater flexibility in access to cash. Of course we all accept that financial services require regulation, but that regulation should always be proportionate, not stifling.

In some respects we have been fortunate in the past year. Not only have food supplies been maintained, but our digital infrastructure held up remarkably well, despite the increased demands on it. Imagine if it had not—if the internet had crashed for a few days or our banking system had cracked and digital payments had failed. I believe there would then have been rather less talk of cash being a thing of the past.

The principal theme of recent months has been resilience, which demands diversity and innovation. The amendment, and my noble friend Lord Holmes of Richmond's vision and thinking behind it, perfectly captures that.

For the foreseeable future, cash will continue to be a vital medium of exchange for millions of people. The viability of our system for providing access to cash is therefore a necessity, not a luxury. I pay tribute also to the foresight and leadership shown by my noble friend Lord True. These decisions demand innovation and flexibility, and the kind of thinking captured by my noble friend's amendment will be vital. I know that everyone involved in the payment system will be very supportive.

Baroness Kramer (LD): My Lords, on reading Amendment 37D I think I recognised some of the distinct phraseology to denote an expert hand in its drafting, so I am exceedingly hopeful that the noble Lord, Lord Holmes, has been effective in persuading the Government that this is language they can accept and live with.

Of course, I join in all the calls to make sure that access to cash remains. Despite Covid and all the pressures that have encouraged people to change to digital and electronic payments, 5 million people have stuck to cash, and those people deserve to be served as much as anyone else. Indeed, the point made by noble Lord, Lord Hunt, that digital systems can always go down and that you had better have a back-up, did not occur to me but strikes me as fundamentally important.

My concern is this: I hope the Government do not think this is all they need to do and that this is part of a broader programme of ensuring access to cash. I spoke to quite a number of the storekeepers in my local area. It is a mixed area, with a lot of wealthy and middle-class people but also many people living on a former council estate, now housing association. Among that range, quite a number of people, for a whole variety of reasons, still want to use cash—but I could not find a single shop that would be willing to do cashback without a purchase. In fact, they did not want to do cashback with a purchase in most instances, simply because they did not want to have the cash on the premises, especially at night. Frankly, because of all the various bank branch closures, it would be at least a 35 to 40-minute drive to get to a place where you could deposit the cash overnight. Then you would have to collect it in the morning, which of course would make no sense because most of the shops would be open before the bank was available to hand it over.

5.30 pm

There really are some significant issues. I do not want to denigrate this in any way, simply to point out that it is an important step but that it will take a lot more to make sure that cash continues to be accessible. That means we need an ATM network that continues to work. I think the Post Office's contract with LINK is up for renewal shortly. There are a lot of issues around that arena. We need to make sure that the right results happen.

[Baroness Kramer]

We need something to deal with the closures of various bank branches. After talking to a couple of the banks, none of which wished their names to be mentioned, there is a sense that creating community hubs—where a number of financial institutions might have machines and a staff member or two, collectively paid for, who would support people using those digital machines in accessing a wide range of financial services—would be an interesting way to go.

I continuously press this argument that basic bank accounts are not the answer. The banks that provide them hate providing them and really do not develop those services, but they could be required—in other countries they have been made to—to link up with credit unions, community banks or various social enterprise folks, put money and staff resource into them and make sure that those services they do not want to provide themselves are provided to the community at large.

A lot of imaginative work can be done in this area, and I very much hope that, in addition to supporting this important step—I do not underestimate its importance and the impact it will have in some key areas—the Government will also recognise that they have to do a lot more and do it quickly, because of the changes overtaking us so fast.

Lord Tunnicliffe (Lab) [V]: My Lords, we are grateful to the noble Lord, Lord Holmes of Richmond, for bringing forward these amendments, which would enable individuals to obtain cashback from retail settings without first having to make a purchase. We have not spent a huge deal of time discussing access to cash during the Bill's passage, which is a surprise given the challenges we face in this area. It is beyond doubt that the Covid-19 pandemic has accelerated the transition to cashless payment, but this does not mean that cash is becoming obsolete. Many millions of people continue to feel most comfortable making physical payments. While small businesses have access to low-cost options for taking card payments, many will still prefer to deal with cash.

While we welcome this initiative, I hope the Minister can briefly touch on the Government's response to the wider challenge we face with access to cash, such as the continued closure of bank branches. It is also worth noting that, while people may soon be able to access cash more easily, these amendments do not deal with the fact that some businesses have chosen no longer to accept it. That is their choice, of course, but acceptance is as important as access. I urge the Government to accept these amendments, which would be beneficial to an important part of society.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, I join the expressions of sadness at the news of the death of the noble Lord, Lord Judd, such a tireless campaigner for all the causes he held dear. Even though we meet, of necessity, in an almost entirely empty House, it says everything about the noble Lord that one feels that one particular place over there is empty. Our thoughts go out not only to his family, particularly, but to all those in the Labour Party family who were inspired by his example and loved him as a man.

Amendments 37D and 40A seek to facilitate the provision of cashback without a purchase. I say at the outset to the noble Lord, Lord Tunnicliffe, my noble friend Lord Hunt of Wirral and others that the Government will support these amendments. The noble Baroness, Lady Kramer, is able to divine the language of draftsmen even better than I am.

These amendments introduce an exemption for cashback without a purchase, such that it will no longer be a regulated payment service. Under the current legislation, which derives from the EU's second payment services directive, if a business or its agent, such as a corner shop or supermarket, wanted to offer you cashback without requiring you to make a purchase, it would have to be authorised or registered with the FCA to give you cash from your own accounts. That is a significant burden for even the largest of retailers, let alone small, local shops along the various high streets across the UK.

This amendment removes this requirement; it will take effect two months after Royal Assent. From that point, industry will have discretion to make the service available across the United Kingdom. Where the service is offered, customers will be able to walk into a local business that wishes to participate, such as a corner shop, café or pub, and withdraw cash without having to make an accompanying purchase.

As part of the community access-to-cash pilots, LINK—the UK's main ATM cash machine network—and PayPoint are already testing a cashback without purchase service in a small number of local stores in Cambuslang, Hay-on-Wye, Burslem and Denny. Indications from this trial are positive, and the Government look forward to the outcomes. This amendment will allow for such initiatives to be rolled out across the UK more easily.

The Government recognise that, as my noble friend Lord Holmes of Richmond said, widespread access to cash remains and will remain extremely important to the daily lives of millions of people across the United Kingdom. Although it was not possible in time for this Bill, I can certainly assure the noble Baroness, Lady Kramer, that the Government have committed to legislate to protect access to cash and to ensure the cash infrastructure is sustainable in the longer term.

The Government published a call for evidence on access to cash in October 2020. This highlighted the potential benefit of facilitating cashback without a purchase through legislation. Cashback with a purchase was in 2019 the second most frequently used method of withdrawing cash in the UK, behind ATMs. As my noble friend Lord Holmes of Richmond told us, there were 123 million cashback transactions, amounting to a total amount withdrawn of £3.8 billion.

The Government's view is that cashback without a purchase has the potential to be a valuable facility to cash users and to play an important role in the UK's cash infrastructure. This legislative change, which is possible only now we have left the European Union, would help both to support the availability of cash withdrawal facilities across the United Kingdom, benefiting individuals' access to cash, and to support local cash recycling. These amendments are therefore a welcome step towards protecting access to cash.

I am particularly grateful to my noble friend Lord Holmes of Richmond, who raised this important issue in Grand Committee, for the constructive way he has engaged with the Government and officials since then on this important issue. I am very pleased to be able to say that the Government are proud to support these amendments. Meanwhile, as I covered in my earlier remarks, the Government are considering responses to the call for evidence and look forward to setting out next steps on legislation to protect access to cash in due course.

Lord Holmes of Richmond (Con): My Lords, I thank all noble Lords who have contributed to this debate on such an important issue. Cash still matters, and it matters materially to millions. I thank particularly my noble friend the Minister for the way in which he and all Treasury officials have engaged with this issue. It is a key part, but, as other noble Lords have rightly identified, only one part, of what it means to have a cash-enabled, easily accessed economy across the UK. It adds to financial inclusion. More than that, it adds to complete social inclusion.

We all need to think innovatively about how we can do more to enable, empower and unleash true financial inclusion across the UK. It matters economically, socially and psychologically. If we can enable it, it can address so many of the issues that have dogged our nations for decades.

Again, I thank all noble Lords who have contributed, and I thank particularly the Minister and Treasury officials.

Amendment 37D agreed.

Amendment 37E not moved.

The Deputy Speaker (Lord Haskel) (Lab): We now come to the group consisting of Amendment 37F. Anyone wishing to press this amendment to a Division must make that clear in debate.

Amendment 37F

Moved by ***Baroness Kramer***

37F: After Clause 40, insert the following new Clause—

"Response from the regulators to Parliamentary scrutiny

(1) The PRA and the FCA must have regard to the findings of any Parliamentary scrutiny of their work and operational performance, including but not limited to consultations, rules, supervision and enforcement.

(2) The consultations and rules under subsection (1) include but are not limited to—

(a) prospective or actual rule changes, and

(b) rules and rule changes that have already taken place.

(3) The PRA and the FCA must provide a written response to any committee of either House of Parliament in relation to any concerns it has expressed following such scrutiny.

(4) The written response in subsection (3) must be received by the committee—

(a) in the case of a prospective rule change, before that rule change takes place, or

(b) in any other case, within 12 weeks following publication of an expression of concern."

Baroness Kramer (LD): My Lords, it seems very fitting that the last amendment for debate on Report should return to the issue of parliamentary scrutiny. Of all the issues that we have discussed over the past many days, and of all the sections of this Bill, it seems to me that that is the one that stands out as being extraordinarily important. It refers to the constitution, in a sense, and the constitutional roles in this country. It deals with the largest economic sector, the way in which it is regulated, and Parliament's role in scrutinising the regulation of that sector.

The amendment itself is quite brief; it is almost a summation of some of the previous amendments that we have looked at. But let me reassure the House that we have made the decision not to press it today. We will be relying on the Government's many assertions that the future regulatory framework will offer far more than it appeared to offer in the first days when we looked at the initial consultation.

I want to thank the Minister for persuading—the word is probably not "persuade" but let us use it—both the FCA and the PRA to write to him with their views on this issue. He knows that I consider the FCA letter to be one that simply confirms the status quo, which is inadequate. The PRA letter, however, recognised that, with our departure from the European Union, a whole layer of scrutiny over financial regulation had been stripped away. Although the PRA would obviously not dictate to Parliament how it should replace that accountability, it recognised that it was very likely that Parliament would feel the need to enhance the way in which it scrutinised financial regulation. In the end, we also had a letter from John Glen, using some language to say that it was his view that there must be some toughening of parliamentary oversight—I do not think I paraphrase him incorrectly.

5.45 pm

I say to the noble Earl, Lord Howe, that I have been particularly concerned by the focus on consultation as a core mechanism for scrutiny. Consultation processes have to be initiated by the regulator. We have a long-standing history in those consultations of regulators who pay the greatest attention to the industry players. There have been many discussions here around the concern that we have about industry capture. The role of Parliament will be simply to submit to those consultations, if individual parliamentarians so wish—I suppose groups of parliamentarians can submit their views as well. I am somewhat disturbed that the response to Parliament will be only as part of the general response that is made to the consultation by the regulator. Although it will, I am sure, touch on all of the relevant issues, I question how thoroughly it will address the various relevant issues.

Of course it then falls to Parliament to decide how it will organise its side of scrutiny: how it will organise its committees and what resources it is willing to commit to the necessary expertise to make sure that those committees have the information that they need. I repeat the comment that I made earlier to the Minister: if he thinks that two hours a year in front of the Treasury Select Committee on a huge range of issues is adequate scrutiny, he misunderstands. If he thinks that just ad hoc scrutiny around whatever happens to

[Baroness Kramer]
be the crisis of the day is all that needs to be added to that, he misunderstands. This House, and the other place as well, will need to come together collectively to get to grips with the work that they have to do.

We have moved forward on this issue. We are not in the place we were when this legislation started. We have had some outstanding contributions across the House—the noble Baroness, Lady Noakes, has spoken with her deep knowledge of the industry—that make it very clear that this is not a party-political or an industry-versus-parliamentarian issue, and that it is absolutely fundamental that Parliament exercises its proper right of sovereignty.

With that, I will sit down quietly and assure the House that I am not going to move this amendment. But I am very glad and very impressed by the debate that has taken place on all Benches.

Viscount Trenchard (Con) [V]: My Lords, it is a pleasure to follow the noble Baroness, Lady Kramer, and I thank her for correcting my earlier incorrect inadvertent reference to the noble Lord, Lord Dubs, to whom I apologise, while expressing my sincere condolences on the death of Lord Judd.

The noble Baroness rightly returns again to the subject of parliamentary oversight, which we have discussed extensively, including on the second day of Report, last Wednesday. My noble friend the Minister has argued that it is difficult to decide definitively how parliamentary scrutiny will work ahead of the conclusions of the future regulatory framework review.

I had put my name to Amendment 37A in the name of my noble friend Lord Blackwell, which provides for timely scrutiny of rules proposed by either regulator, either before taking effect or, at latest, within five days of taking effect. It does not refer to a specific committee of either House or a specific Joint Committee of both Houses, but provides for both Houses to agree and resolve which committees or Joint Committee should be charged with this responsibility.

I prefer Amendment 37A to Amendment 37F, because it does not damage the independence of the regulators. Furthermore, it requires a written response to any prospective rule change before the rule change comes into effect, whereas if the rule change has already come into effect, a written response is required only within 12 weeks of any expression of parliamentary concern.

This does not provide for a consistent approach. In the first case, it shackles the regulators too much, but in the second case seems to provide for a very relaxed response, devoid of a necessary level of influence on the regulators. I regret that the Government have not brought forward their own ideas about parliamentary scrutiny, especially as the House has accepted their proposal to dispense with a separate Third Reading for this Bill. I trust that the Minister will let us know the apparent thinking of the Government on this matter.

I thank the Minister and my other noble friends on the Front Bench for the courteous way in which they have conducted the House's scrutiny of the Bill. I thank the Bill team for all their work, and will welcome passage of the Bill as it completes its remaining stages.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, it is a pleasure to follow the reflections of the noble Viscount, Lord Trenchard, on how oversight of this Bill has been truncated, despite all the hard work put in, and the fact that we still do not have a clear picture of what the Government propose, as the noble Baroness, Lady Kramer, said in introducing Amendment 37F.

As this is the last amendment, and we have already covered this ground extensively, I will be brief. I wanted to speak on this group to offer my support for the amendment in the names of the noble Baronesses, Lady Kramer and Lady Bowles of Berkhamsted, both of whom have done extraordinary, sterling work on this Bill.

We have a real problem of oversight, which has been seen and expressed on many sides of your Lordships' House. Looking at the real-world situation, the circumstances now and the headlines coming out, we have huge problems with our financial sector, and any independent outside observer would see that clearly. Although we know that this amendment will not be put to a vote, it would ensure that there is a chance to properly question and scrutinise the work of the regulators, which has to be at the heart of the system, and of trying to fix our broken system.

It has been a long debate, if often cut up into different stages and occurring at odd intervals, and we have a long way to go. The Government tell us we are to expect many more financial Bills coming down the track. We will have to keep coming back to these issues again and again, until we finally see progress.

The Deputy Speaker (Baroness Garden of Frognal) (LD): The noble Baroness, Lady Bowles of Berkhamsted, has withdrawn, so I now call the noble Lord, Lord Tunnicliffe.

Lord Tunnicliffe (Lab) [V]: My Lords, we had a fruitful debate on the issue of parliamentary scrutiny and the regulator's rule-making powers last Wednesday. Since this amendment was tabled, I have viewed it as an opportunity to tie up any loose ends, rather than being likely to result in a Division.

It is fair to say that nobody is particularly happy with the current arrangements, particularly given the loss of European Parliament scrutiny of new prudential rules, and the glut that will come once the Bill becomes an Act. However, there is little sense in repeating the arguments made in previous debates. I recognise that the Minister was able to make some important additional commitments in his response to last week's group of amendments. Since this amendment was tabled, we have seen correspondence from the Economic Secretary to the heads of the FCA and PRA, asserting that Parliament, as we have all said in recent months, has and must enjoy a special role in overseeing the regulators' output. The letter provided what my noble friend Lord Eatwell has long referred to as the final component of a three-legged stool.

Having reached agreement that Parliament should be treated as a significant stakeholder, the key is to now put in place a mechanism for meaningful scrutiny to take place. Our Amendments 45 and 48 envisage

the establishment of a dedicated committee of each House, or a Joint Committee of both, and that remains an attractive prospect to us. Therefore, as we move into a new Session, I hope the Minister can assure me that the Treasury and business managers in both Houses will look at making it a reality. We await the outcomes of the future regulatory framework review, which I hope will represent a significant step forward for all strands of oversight. Once we have digested the findings, our task will be to scrutinise a successor to FiSMA, and I repeat our call for legislation to receive the detailed pre-legislative scrutiny it deserves.

Scrutiny has been the central theme of the Bill. The noble Baroness, Lady Kramer, said that we must look forward, and she commented that, in many ways, the theme of scrutiny has crossed parties as an apolitical discussion. I hope it will not be a matter of conflict between regulators and Parliament, and that the opposite will be true, as they must work together to make this scrutiny work. I also hope it will mean that we can have real confidence in the work of the regulators, and a real sense that their actions are fully understood by responsible politicians.

Earl Howe (Con): My Lords, I am grateful to the noble Baroness, Lady Kramer, for her helpful and constructive introduction to this amendment. I begin by stating my agreement with her on what I am confident is common ground between us in two respects: Parliament has a unique and special role in scrutinising the regulators and shaping the financial services regulatory landscape, and scrutiny and accountability of regulators has emerged as the foremost issue throughout our debates on the Bill. The noble Baroness, Lady Hayman, will forgive me for not putting the issue alongside that of climate change.

I appreciated the noble Baroness's remarks on the way in which our cross-party discussions have enabled us to make progress on this issue, which we debated in some detail last week. I will not repeat all my remarks from that occasion, but I will summarise them. I confirmed to the House that the Economic Secretary to the Treasury has written to the chief executives of the PRA and the FCA, to endorse the commitments that they made in their recent letters, and emphasised the importance that the Government place on them. I assured noble Lords that the Government agree that the regulators should provide a comprehensive response to parliamentary committees on any issues they raise in the course of their scrutiny. I also confirmed that the Government remain committed to further considering this issue as part of the ongoing future regulatory framework review, and to engaging with Members of this House and the other place, as we continue that review.

As I said then, delivering the reforms that the Government have proposed in this area could be done only through further primary legislation. Therefore, Parliament will have the opportunity to return to this issue where it can be considered fully. The noble Baroness, Lady Kramer, noted that consultations are not the only relevant issue here, and I agree with her. I am happy to confirm again that the Government view parliamentary scrutiny much more broadly, also to encompass the regulators' wider work.

6 pm

I also set out the current arrangements that allow Parliament to scrutinise the work and operational performance of the Financial Conduct Authority and the Prudential Regulation Authority. This includes the regulators' annual reports to the Treasury, which are published and laid before Parliament, and their regular appearances before parliamentary committees. The FCA, for example, must attend general accountability hearings before the Treasury Committee twice a year, as I mentioned earlier. The PRA must also appear before the TSC after the publication of its annual report. In addition to these regular hearings, parliamentary committees of both Houses are able to summon the regulators to give evidence on an ad hoc basis, and these committees can ensure that the hearings focus on what they consider to be the most important issues.

The FCA and the PRA also take into account and respond to the judgments of parliamentary committees. For example, following the Treasury Committee's publication of its report, *IT Failures in the Financial Services Sector*, in October 2019, the FCA and the PRA, as well as the Bank, published a comprehensive response setting out in detail their plans to address the committee's recommendations. Similarly, following the publication of the Treasury Committee's report on cryptoassets in September 2018, the FCA announced that it would issue a series of consultations to address key issues raised by the committee.

I share these examples as they helpfully demonstrate where the regulators have not merely responded to questions raised by parliamentary committees but have taken direct and tangible action. This is, of course, in addition to the many examples of the regulators responding to questions raised on regulatory decision-making by parliamentary committees through correspondence with the committee chair. As discussed at length in last week's debate, I hope that noble Lords will take comfort from the letters of 19 March from the FCA and the PRA, which reiterated their commitment to working with Parliament in whatever way that Parliament determines is appropriate.

I want to pick up one or two points made by the noble Baroness, Lady Bowles, in her winding-up speech last week; although she has not been able to speak in today's debate, some of her points represent loose ends from our discussions. She made a point that it is necessary to ensure that Parliament has access to the information that it needs to properly scrutinise and consider the regulators' activities. Here, again, I refer to the recent letters from the PRA and the FCA, which commit to ensuring that Parliament has the information necessary for comprehensive scrutiny of the regulators.

On the noble Baroness's specific point about access to firm-level data to understand how capital requirements are calibrated, as we have discussed in our scrutiny of this Bill, capital standards for global banks are written by the Basel committee, and are extensively consulted on with industry. Where appropriate, following industry feedback, they may be revised. The Basel committee publishes annual quantitative impact studies designed to assess the ongoing and likely future impact of Basel reforms on banks, in aggregate.

[Earl Howe]

While the regulators have emphasised their commitment to openness, this House will appreciate that there will be some instances where it is simply not appropriate to share confidential regulatory data from firms with Parliament. The protection of this information is important, given the risks that broader disclosure may pose to a firm's ongoing business or the even broader risk of contagion and wider financial instability. We cannot dismiss that. Regulators would need to consider whether any requests for information were appropriate under the relevant legislation, which is set out in the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001.

I reassure the noble Baroness, Lady Bowles, in her absence, that I am not aware of any instances of the regulators refusing to respond to reasonable information requests from relevant parliamentary committees, but in keeping with the assurances made by the regulators and the Government during last week's debate, I know that my honourable friend the Economic Secretary would be very willing to discuss with the noble Baroness any specific concerns that she has regarding information sharing with Parliament. If there are any inappropriate constraints on the sharing of information, we would want to return to the matter in the future regulatory framework review.

I hope that my assurances, and those of the regulators, have demonstrated the Government's appreciation of Parliament's unique role in relation to scrutiny. I therefore hope that the noble Baroness, Lady Kramer, feels even more comfortable than she did earlier in withdrawing her amendment.

Baroness Kramer (LD): My Lords, I am going to do something quite dangerous and put myself for a moment in the shoes of my noble friend Lady Bowles, picking up a couple of points from the Minister, because they are necessary.

First, one of the underlying points of my noble friend Lady Bowles is that, certainly in the European Union but in other places too, there are mechanisms for confidential information to be shared with Parliament, and shared in such a way that the individual firm is not afraid that this will get out into the wider world and therefore compromise it in any competitive way. Sometimes that is a necessary part of appropriate oversight and scrutiny of the decisions the regulator is making. On behalf of my noble friend, I think I can say that she would be delighted to meet with the Economic Secretary to discuss how this could be addressed.

Secondly, it is always slightly disingenuous to treat Basel as though it were some distant body that, essentially, comes out with a set of regulations and tells us what we have to do. The UK regulators are incredibly influential—or they traditionally have been—on the Basel process; they fundamentally shape it. Therefore, engagement with those regulators before they trot off to a Basel meeting and use their various resources to affect the outcome and decisions at the Basel level is particularly significant and important. I want to make sure that it is understood that this is not just a question of our regulators following instructions from a world body; our regulators have a very big impact on what that world body chooses to say. It is a very important way for us as a Parliament to make sure that our concerns that regulation is appropriate are communicated through that route and help shape—or, at least, are in the minds of regulators when they engage in shaping—that world environment.

Having said that, I think we all recognise that we are at the early stages of a process that will not be completed in this Bill. That process now takes off to a series of consultations and eventually to legislation. I have said to the Minister before that I hope there will not be any more measures that end-run that final regulatory framework, but that may happen, and if it does, we will have to deal with it as it occurs. We are doing this backwards—a lot of legislation is going through, shaping the relationship between Parliament and the regulator, before we have even done the consultation on what that should look like, but I appreciate the time that the Minister has taken to respond to my noble friend's points. With that, I will sit down and be quiet until the next opportunity to take on this issue. I beg to withdraw the amendment.

Amendment 37F withdrawn.

Clause 44: Extent

Amendments 38 to 40

Moved by ***Earl Howe***

38: Clause 44, page 47, line 33, leave out "subsection (2)" and insert "subsections (2) and (2A)"

Member's explanatory statement

See the explanatory statement for the Minister's second amendment at page 47, line 34.

39: Clause 44, page 47, line 34, leave out subsection (2) and insert—

"(2) In section 34 —

(a) subsections (1), (3) and (5) extend to England and Wales only, and

(b) subsection (4) extends to England and Wales and Northern Ireland only."

Member's explanatory statement

This amendment provides that certain amendments of sections 6 and 7 of the Financial Guidance and Claims Act 2018 in Clause 34 extend only to England and Wales.

40: Clause 44, page 47, line 34, at end insert—

"(2A) In Schedule 12, paragraph 14(3A) extends to Northern Ireland only."

Member's explanatory statement

This amendment and the Minister's amendment at page 47, line 33 provide that subsection (5B) of section 303Z1 of the Proceeds of Crime Act 2002, inserted by Schedule 12 to the Bill (see the Minister's amendment at page 182, line 26), extends to Northern Ireland only.

Amendments 38 to 40 agreed.

Clause 45: Commencement and transitional provision

Amendment 40A

Moved by ***Lord Holmes of Richmond***

40A: Clause 45, page 48, line 18, at end insert—

"(e) section (Payment services and the provision of cash)."

Member's explanatory statement

This amendment provides for the new Clause about payment services and the provision of cash to come into force two months after the Bill receives Royal Assent.

Amendment 40A agreed.

Amendments 41 and 42

Moved by ***Earl Howe***

41: Clause 45, page 48, line 21, leave out from "appoint" to end of line 22

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 182, line 26.

42: Clause 45, page 48, line 34, leave out subsection (9)

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 48, line 21.

Amendments 41 and 42 agreed.

Schedule 2: Prudential regulation of FCA investment firms

Amendment 43

Moved by ***Earl Howe***

43: Schedule 2, page 65, line 27, at end insert—

"(ba) the target in section 1 of the Climate Change Act 2008 (carbon target for 2050), and"

Member's explanatory statement

This amendment requires the FCA to have regard to the carbon target for 2050 when making Part 9C rules (defined in section 143F of the Financial Services and Markets Act 2000, inserted by Schedule 2 to the Bill).

Amendment 44 (as an amendment to Amendment 43) not moved.

Amendment 43 agreed.

Amendment 45 not moved.

Amendment 46

Moved by ***Earl Howe***

46: Schedule 2, page 80, line 22, at end insert—

"Carbon target

21A_ In relation to the making of Part 9C rules that are made on or before 1 January 2022—

(a) paragraph (ba) of section 143G(1) of the Financial Services and Markets Act 2000 (duty to have regard to carbon target for 2050) does not apply, and

(b) section 143H(1)(b) of that Act does not require an explanation in respect of matters specified in that paragraph."

Member's explanatory statement

This amendment disapplies the FCA's duty to have regard to the carbon target for 2050 (see the Minister's amendment at page 65, line 27) in relation to Part 9C rules made on or before 1 January 2022.

Amendment 46 agreed.

Schedule 3: Prudential regulation of credit institutions etc

Amendment 47

Moved by ***Earl Howe***

47: Schedule 3, page 82, line 14, at end insert—

"(ca) the target in section 1 of the Climate Change Act 2008 (carbon target for 2050), and"

Member's explanatory statement

This amendment requires the PRA to have regard to the carbon target for 2050 when making CRR rules (defined in section 144A of the Financial Services and Markets Act 2000, inserted by Part 1 of Schedule 3 to the Bill) and also when making section 192XA rules (see sections 192XA and 192XB, inserted by Part 2 of Schedule 3 to the Bill).

Amendment 47 agreed.

Amendment 48 not moved.

Amendment 49

Moved by ***Earl Howe***

49: Schedule 3, page 90, line 20, at end insert—

"Carbon target

24A_ In relation to the making of CRR rules or section 192XA rules that are made on or before 1 January 2022—

(a) paragraph (ca) of section 144C(1) of the Financial Services and Markets Act 2000 (duty to have regard to carbon target for 2050) does not apply, and

(b) section 144D(1) of that Act does not require an explanation in respect of matters specified in that paragraph."

Member's explanatory statement

This amendment disapplies the PRA's duty to have regard to the carbon target for 2050 (see the Minister's amendment at page 82, line 14) in relation to CRR rules and section 192XA rules made on or before 1 January 2022.

Amendment 49 agreed.

Schedule 12: Forfeiture of money: electronic money institutions and payment institutions

Amendments 50 and 51

Moved by ***Earl Howe***

50: Schedule 12, page 182, line 26, leave out sub-paragraph (3) and insert—

"(3) After subsection (5) insert—

"(5A) In this Chapter as it extends to England and Wales and Scotland, "relevant financial institution" means—

(a) a bank,

(b) a building society,

(c) an electronic money institution, or

(d) a payment institution."

(3A) After subsection (5A) insert—

"(5B) In this Chapter as it extends to Northern Ireland, "relevant financial institution" means—

(a) a bank, or

(b) a building society.""

Member's explanatory statement

This amendment provides that it is only Chapter 3B of Part 5 of the Proceeds of Crime Act 2002 as it extends to England and Wales and Scotland that is amended to provide for forfeiture of money in accounts maintained with electronic money institutions and payment institutions.

51: Schedule 12, page 183, line 24, leave out "303Z1(1A)" and insert "303Z1"

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 182, line 26.

Amendments 50 and 51 agreed.

Third Reading agreed without debate.

6.11 pm

Motion

Moved by ***Earl Howe***

That the Bill do now pass.

Earl Howe (Con): My Lords, it is right that we take a brief time to offer some concluding remarks. I begin by thanking all noble Lords who have taken part in our debates for their thorough consideration of this Bill. The Bill is a very important step towards the Chancellor's vision for the future of the UK's financial services sector. As the first major piece of financial services legislation since our leaving the EU, it will enhance the UK's world-leading prudential standards, promote financial stability, promote openness between the UK and international markets, and maintain an effective financial services regulatory framework and sound capital markets.

It has been a great privilege to guide this legislation through the House alongside my noble friends Lord True and Lady Penn; I thank them both. I am especially grateful to both opposition Front Benches for their constructive engagement on the Bill. All those involved have brought to bear huge experience as well as great enthusiasm and insight. There are too many other noble Lords for me to thank individually, but I do so collectively. I for one have appreciated the very thoughtful and expert contributions from all quarters of the House, not least from my noble friends on these Benches.

As my right honourable friend the Chancellor has set out, the financial services sector will be crucial to our economic recovery from the pandemic, offering job creation and economic growth in all corners of the economy. In these debates, noble Lords across the House have demonstrated their appreciation of the important role that this sector will continue to have, and this legislation is undoubtedly better for their consideration.

We have discussed some extremely technical issues as well as broad issues that reach far beyond the specifics of the Bill. We have looked at the role that the financial services sector will play in our efforts to tackle climate change. We have discussed at length the special role that Parliament must continue to have in relation to the scrutiny of the financial services regulators and their activities. As the Government move forward in delivering their vision for the financial services sector, the debates that we have had during the passage of this Bill will continue to be of vital relevance.

I conclude these brief remarks by acknowledging the hard work undertaken by the Treasury Bill team, the numerous Treasury officials and the clerks in the Public Bill Office, who have worked incredibly hard to support the passage of the Bill. I express my warmest appreciation to them for the unstinting support that they have provided. I beg to move.

6.15 pm

Lord Tunnicliffe (Lab) [V]: My Lords, this is a very significant Bill. At the point of discontinuity between the days of EU involvement and control to the new world after leaving the EU, the depth of involvement that we have had with both other parties and the Government has been significant. We have had conversations on the Floor of the House and in other meetings, and we have all at least understood one another. We have gone some way to address the central point of the Bill, which is how to scrutinise the regulators while, at the same time, leaving them independent and effective. We will see whether the compromises that have been agreed work, over the next several months, in both the day-to-day examination of the regulators' output and the development of subsequent law.

I thank the noble Earl, Lord Howe, the noble Lord, Lord True, the noble Baroness, Lady Penn, and their teams, for all their efforts. The leader of the Labour side in this debate was of course my noble friend Lord Eatwell who, unfortunately, was not able to be with us today, but he asked me to read the following statement. These are his words, not mine.

"Standing at the Dispatch Box for the Opposition, I have always believed that my job is to oppose; to expose the flaws in the Government's erroneous and sloppy thinking. It has, however, been a very new experience working on this Bill with the noble Earl, Lord Howe. It was evident from the start that his objective was to achieve something useful—a constructive experience that I value and for which I am grateful."

I was less surprised than my noble friend Lord Eatwell, because I have been on the opposite side of this Chamber from the noble Earl, Lord Howe, for many years, and have always found him very committed to finding a consensus way forward, where possible.

I thank my researcher, assistant and speechwriter, Dan Stevens, for all his work, because I would not have survived without it. Finally, I thank the House for its tributes to Frank Judd. He was a wonderful person and he carried on being a wonderful person right to the end. He was voting last week—the right way, of course. I was also his whip, but it really felt the other way round, because he was always so supportive. I have lost not only a member of my team but a very good friend, who has always supported me and been helpful. I thank the House once again for its tributes.

Baroness Kramer (LD): My Lords, once again I thank Lord Judd, because he contributed to this Bill, so it is entirely appropriate to reference him, as we close and the Bill passes. This was originally presented as a "limited, technical Bill". Whoever thought up that phrase is probably now assigned to writing detailed amendments on obscure financial practice, because it has been anything but.

From my perspective, we had three major areas to tackle in this Bill. We have talked about the constitutional issues of regulator accountability to Parliament, which are overwhelmingly important to this House and the other place. We have also dealt with extensive legislation that impacts ordinary consumers. One can never overstate the importance of dealing with issues such as debt, mortgage prisoners, sharia finance, access to cash or financial exclusion. They are crucial to the people of this country and to everyday lives, so I am very glad that they formed a major part of this Bill. Thanks to the noble Lord, Lord Holmes, we have had some particular success—and perhaps will have more success with the amendments that we passed.

We also dealt with the environment and made some real progress in that area. I regret that by one vote only—because it was a tie—we did not get our capital adequacy amendment through but I think the House will, at some point in time, be back discussing that issue. I also suspect that, at some point, the PRA will announce the changes to capital adequacy ratios that reflect the underlying stranded assets associated with fossil fuels in various forms. That, too, I see as a work in progress but it was an important discussion and put down some very significant markers.

I want to thank the Public Bill Office. I cannot remember a piece of legislation where so many amendments appeared in each round, both in Grand Committee and on Report. Its work in turning around those amendments to ensure they were in an appropriate form was very much appreciated.

I join in thanking the noble Earl, Lord Howe, the noble Baroness, Lady Penn, and the noble Lord, Lord True. I say to all three of them that we appreciate that they listened to what we had to say and, whether they agreed or disagreed, always responded to us with respect and looked for common ground. Frankly, I regard the noble Earl, Lord Howe, as the Conservative Government's secret weapon because he certainly brings us to a common point that finds a way through when relatively few other people could.

I really want to thank others for the co-operative working across the House. We have worked closely with all those on the Labour Benches, but it has been with the Conservative Benches as well. It really shows this House at its best when it deals with issues of fundamental importance.

On my own team, Sarah Pughe in the Whips' Office kept us co-ordinated; she also kept us informed, which was quite some challenge. My noble friends Lord Bruce, Lady Sheehan and Lady Tyler stepped in to contribute some special knowledge. I thank in particular my noble friends Lady Bowles, Lord Sharkey and Lord Oates, each of whom took on one of those three areas that I categorised as crucial in this Bill and brought to them absolutely exceptional levels of expertise, real dedication and hard work. They supported their positions with extraordinary diligence. Sometimes when people come with not only expertise but passion and concern, they can make an effective difference in the way they communicate with the House. I have to say to those three how much I appreciated them.

My noble friends Lady Bowles and Lord Sharkey are off at the Industry and Regulators Select Committee. I understand that the noble Lords, Lord Eatwell and Lord Blackwell, are there. I am sure they are missing the noble Baroness, Lady Noakes, today but I hope she will make that up at the next meeting and ensure that her imprint is on the work of that committee.

This has been a real pleasure. I believe we have achieved something. It is not all I would have wanted but, as I say, this is only the beginning of a long process.

Baroness Coussins (CB): From these Benches, I too am grateful for the opportunity to express my thanks to all noble Lords who participated at all stages of the Bill. The noble Earl, Lord Howe, the noble Baroness, Lady Penn, and, from the point of view of my own particular interest in the Bill, especially the noble Lord, Lord True, have steered the Bill skilfully through your Lordships' House. Although he is not in the Chamber at the moment, I place on record my grateful thanks to the noble Lord, Lord True, for his constructive engagement and for meeting me and the noble Baroness, Lady Morgan of Cotes, on two occasions to discuss amendments concerning the statutory debt repayment plans.

Together with the Bill team and the wider group of Treasury officials, the noble Lord, Lord True, has given me and the network of debt advice charities a great deal of confidence that these plans will be brought into effect in 2024. We are all grateful for this positive attitude. I thank all other noble Lords who spoke on this issue and on a variety of other matters of concern to consumers. As well as SDRPs, I welcome the fact that the Bill paves the way towards regulating buy now, pay later products, for example. Indeed, it has been very pleasing to see the level of consensus across the House on the need to improve support for people in financial difficulty and to tackle financial exclusion.

Finally, the passage of the Bill has been an important opportunity to look at what more needs doing on the financial services regulatory framework to ensure that it is as effective as possible at protecting consumers; for example, one area that was raised but ultimately found to be beyond the ambit of the Bill was oversight of bailiffs, but the commitment from the Government to work with stakeholders to develop this is very welcome.

I thank all concerned, including the excellent Lord Judd, whom we will all miss very much indeed.

Earl Howe (Con): My Lords, I am grateful to all noble Lords for their remarks in bringing our proceedings to a conclusion. I beg to move.

Bill passed and returned to the Commons with amendments.

House adjourned at 6.26 pm.

Grand Committee

Monday 19 April 2021

2.30 pm

Arrangement of Business

Announcement

2.30 pm

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): My Lords, the hybrid Grand Committee will now begin. Some Members are here in person, others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to wear a face covering except when seated at their desk, to speak sitting down and to wipe down their desk, chair and any other touchpoints before and after use. If the capacity of the Committee Room is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. If there is a Division in the House, the Committee will adjourn for five minutes.

Public Health (Coronavirus) (Protection from Eviction) (England) (No. 2) (Amendment) Regulations 2021

Considered in Grand Committee

2.31 pm

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

That the Grand Committee do consider the Public Health (Coronavirus) (Protection from Eviction) (England) (No. 2) (Amendment) Regulations 2021.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Wolfson of Tredegar) (Con): My Lords, the instrument before us today prevents enforcement agents—bailiffs—from attending residential premises in England to execute a writ or warrant of possession except in the most serious circumstances. The House will be familiar with the structure and content of this statutory instrument as it is the fourth that the Government have tabled to restrict the enforcement of evictions since November last year.

The instrument applies to enforcement action in England. It amends the Public Health (Coronavirus) (Protection from Eviction) (England) (No. 2) Regulations 2021 in only one respect: by amending the expiry date of those regulations from the end of 31 March 2021 to the end of 31 May this year. On 18 March, when we debated the previous statutory instrument, a number of noble Lords expressed concerns about the short-term nature of these regulations and suggested that both landlords and tenants would benefit from greater clarity about how long the restrictions would be in force.

I explained in the last debate that the Government have to balance the need for clarity against ongoing developments in the pandemic. We believe that retaining the restrictions in this instrument until 31 May while the Covid-19 restrictions remain in place will align with the broader strategy for protecting public health and will continue to help to reduce pressure on essential public services as we move out of lockdown. Indeed, as I explained last time, the extension to 31 May, which I headlined in that debate, is broadly in line with the road map out of lockdown. Step 3 of the road map will be taken no earlier than 17 May following a review of the relevant data. That step will see a number of restrictions being lifted, including—importantly, in this context—the restrictions on domestic overnight stays.

Noble Lords might say, "Why 31 May and not a date linked to step 4, which is scheduled for no earlier than 21 June?" The short answer is that we must remember, when considering the date of 31 May, that in most cases bailiffs are required to give 14 days' notice of an eviction. In practice, therefore, protection from the enforcement of evictions will be afforded in most cases until mid-June. We have sought to strike the right balance in the prevailing circumstances.

I am sure that noble Lords will be familiar with the content of the statutory instrument. We have put a ban in place but there are the by now familiar limited exceptions to the ban in cases where we believe the competing public interests in ensuring access to justice, preventing harm to third parties or taking action against egregious behaviour and upholding the integrity of the rental market sufficiently outweigh the public health risks. The exemptions are: first, where the claim is against trespassers who are persons unknown; secondly, where the order for possession was made wholly or partly on the grounds of anti-social behaviour or nuisance, false statements, domestic abuse in social tenancies, or substantial rent arrears equivalent to six months' rent; or, thirdly, where the order for possession was made wholly or partly on the grounds of death of the tenant, and the enforcement agent attending the property is satisfied that the property is unoccupied. In each case the court will have to be satisfied that the exemption applies, and that will be considered on a case-by-case basis.

We therefore think it is fair and proportionate to allow for an exemption to the ban in cases where a landlord has sought a possession order on the grounds of rent arrears, and where a full six months of rent arrears has accrued. We know that private landlords, in particular, can be vulnerable to rent arrears; 45% of them let just one property, and 29% rely on rent for over half their income.

Data from sources such as the National Residential Landlords Association and the Resolution Foundation indicate that the vast majority of renters who are in arrears will not have built up the extreme level of rent arrears—six months-worth—that would allow the landlord to apply for an exemption to this public health measure. We continue to monitor the impact of the exemptions.

In cases where a court has decided that an exemption applies, bailiffs have to give tenants at least 14 days' notice of an eviction, in most circumstances. They have been asked not to enforce evictions where a tenant has symptoms of Covid-19 or is self-isolating.

In addition to these regulations, we have also introduced a requirement, in the Coronavirus Act, that landlords, in all but the most serious circumstances, must give six months' notice before beginning formal possession proceedings. That is another protection for tenants.

[Lord Wolfson of Tredegar]
That means, essentially, that most renters served notice now by their landlord would be able to stay in their homes until October 2021. This measure will remain in place until at least 31 May. We will consider the best approach for after this date, taking into account the prevailing circumstances at that time.

I have set out in previous debates on such statutory instruments the significant help that the Government have given to try to prevent people getting into financial hardship by helping businesses to pay salaries—frankly, that is the most important measure to enable people to pay their rent—through the furlough scheme, which has been extended until the end of September. The Self-employment Income Support Scheme has also been extended, and we have boosted the welfare safety net by billions of pounds. The Committee will be aware that in the Budget we announced that the universal credit top-up of £20 per week would continue for a further six months, and there is a further one-off payment of £500 for eligible working tax credit claimants.

In the Budget there was also a recovery loan scheme, which was launched to ensure that businesses, in particular SMEs, are well supported in their ability to access the finance they need throughout 2021. More than 1.5 million businesses have benefited from Government-backed support, receiving over £70 billion in total.

Ministry of Justice statistics show that the number of possession claims being made to the courts has fallen significantly. The most recent statistics show that applications to the courts for possession by private and social landlords were down 67% in the last quarter of last year, compared to the same quarter in 2019. Temporary court arrangements and rules, which have been put in place by the Master of the Rolls working group, include a review stage at least 28 days before the substantive hearing, so that tenants can get legal advice. Any cases started before August 2020 have to be reactivated by landlords before the end of this month, and we are also putting in place a free mediation service, as part of the possession action process, to support landlords and tenants to resolve disputes before a formal court hearing takes place.

Let me reiterate that I am aware that there are landlords who have been adversely affected by these regulations. As I have also said on previous occasions, we have sought to strike a balance—to enable tenants to pay their rent, but also, in egregious cases, to enable landlords to obtain possession. We remain grateful to landlords for their forbearance during this unprecedented time. We consider that these regulations strike an appropriate balance between the interests of landlords and those of tenants, and I therefore commend them to the Committee.

2.39 pm

Lord Hain (Lab) [V]: My Lords, I welcome these regulations on evictions and thank the noble Lord, Lord Wolfson of Tredegar, for his clear explanation. I should be grateful if he would consider another suggestion to deal with the way in which home owners and would-be home owners have been hit by Covid. There has been considerable distress and hardship among those hoping to move or to buy a first home but who, as a direct result of the pandemic, have experienced a sudden and unexpected collapse in their income, triggering a sale collapse and loss of deposit after contracts had been exchanged, through absolutely no fault of their own.

One proposal is to insert for the duration of the pandemic a new Covid regulation containing four key elements: first, that the party's right to serve a notice to complete will be suspended while an event directly related to Covid-19 prevents the other party from completing; secondly, that a party will not be in breach of its obligations because of a delay caused by Covid-19; thirdly, that either party may terminate the contract if completion does not take place by a specified longstop date, fixed at an agreed date beyond the contractual completion date; fourthly, that there will be a moratorium—with retrospective effect from the first national lockdown imposed by the Prime Minister on 23 March 2020—on deposits so that home buyers do not lose them because a Covid-19 impact prevented sales being completed.

Could the Minister bring forward new regulations, like the ones we are debating today, which would, in effect, freeze transactions due for completion after March 2020 but which, for Covid-related reasons, could not be completed because of an abrupt and dramatic change in financial circumstances? I should be grateful if the Minister looked at this.

2.41 pm

Lord Shipley (LD) [V]: My Lords, it was on 18 March that we last debated this matter. We knew then that there would be yet another extension—and here we are. However, I am left wondering what the Government's plan is. Indeed, I wonder whether they have a plan at all.

We are now a year on from the introduction of the ban on evictions; a year in which more and more tenants fear becoming homeless—one in four, according to Shelter; a year of not addressing the pending crisis in landlords' loss of income; a year of building up the backlog of claims for possession.

Landlords' and renters' organisations have talked to each other and have come up with a plan for a Government-led rent relief scheme which would help both landlords and tenants. We should bear in mind that Scotland and Wales already have schemes in place.

A year ago, the Secretary of State gave a commitment that no one would be forced out of their home because they have lost income as a result of coronavirus. He also said that no landlord would face unmanageable debts. Given that, what discussions have the Government had with those organisations about their proposal?

This further extension is clearly right, given the circumstances, but the problem is not going away because many tenants in the private rented sector are carrying substantial debt and must rely on that sector, because they have no choice. This is the consequence of the failure to build enough homes for social rent, which is making the situation so much worse.

2.43 pm

Lord Bilimoria (CB) [V]: My Lords, it is very good that the ban on commercial evictions has been extended to 30 June and the bailiff-enforced eviction ban has been extended to 31 May to protect residential tenants.

As president of the CBI, I should like to say that we are very grateful for the many times that the Government have listened to business and shown flexibility and adaptability.

It is right to continue supporting renters with the cost of living and to align this with the Prime Minister's timely road map, particularly when tenants may continue to be on furlough or working in sectors that cannot reopen for some weeks yet. For the some 49% of hospitality workers who have suffered so much during this pandemic, and the 36% of retail workers currently renting, the new measures will protect jobs as businesses reopen and many more renters can return to work.

However, landlords may be asking how, in some cases, the growing rental debt will be managed after the protection ends. The issue cannot be addressed if parties fall out with each other the moment the protection ends. The Government should be seeking to avoid a cliff-edge in June for residents and landlords and, where possible, helping tenants and landlords to work together to secure fair tenancy agreements moving forward. That should be a priority, as the Minister will agree.

The Government have promised mediation support for resolving issues where disputes arise, and this must be available to all who need it. We could produce a heavy caseload for mediation if the Government can publish guidance for tenants and landlords that will help negotiations to be held in a fair and transparent manner, in good time ahead of May.

It is positive that the Government continue to be clear about giving at least six months' notice for evictions where eviction notices are necessary, as the Minister said. The Government appear to have launched a new free mediation service for disputes, so you can add this free service's helpful support for tenants at what could be a difficult time, hopefully avoiding the need for court action. Can the Minister confirm this?

There is still so much uncertainty for the rest of the year around people's employment as the economy reopens. Health and caring responsibilities continue to impact on people's ability to work, so it is right that tenants are protected from evictions and given the opportunity to resolve them.

2.45 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, I declare my interests as set out in the register. It is a great pleasure to follow the noble Lord, Lord Bilimoria. I thank my noble friend the Minister for setting out the regulations with his customary lucidity and precision. Of course, we have been here before, so it could be argued that he has had plenty of practice.

I certainly support the regulations. Clearly, we should extend help to tenants who would otherwise face eviction as a result of coronavirus. What we must now provide as we emerge from the shadow of Covid is long-term help for both tenants and landlords. Tenants still owe rent. Landlords are still owed rent. The whole system is in danger as the creditworthiness of hundreds of thousands of tenants is undermined by the current situation. There is a very real danger of masses of tenants facing eviction, even if it is six months away, as the system of respite from evictions comes to an end.

As the noble Lord, Lord Shipley, noted, a scheme is already in place in both Wales and Scotland. May I press my noble friend the Minister to ensure that a specifically tailored financial package is put in place for tenants? The alternative will be landlords seeking judgments against tenants who are in debt. It would not be correct to assume that the bulk of landlords are vastly wealthy. This needs urgent action from the Minister and the Government, as I have mentioned before. I am still not convinced that we have in place a plan—one is sorely needed—to ensure that, as I say, we do not face a serious problem with the eviction of private tenants as we emerge from the shadow of Covid.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): The noble Baroness, Lady Andrews, has withdrawn so I call the noble Baroness, Lady Ritchie of Downpatrick.

2.47 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, I welcome these regulations. I have several questions for the Minister, building on what we dealt with during our debate on 18 March.

Covid-19 has changed every aspect of our society and economy. The private rented sector has been impacted to a significant extent, with many people living in fear of evictions as they are now without a job and have little money with which to pay their rent. Many private renters are struggling to pay. More than 800,000 renters may have built arrears since lockdown measures started a year ago. As the noble Lord, Lord Bourne, said, many landlords are not property tycoons and are also struggling; they, too, need assistance.

With Ministers committing to a tapering-down of emergency restrictions in the sector from the start of June, tenants and landlords need a comprehensive, cross-departmental road map to tackle rent debts, speed up the operation of the courts and carefully taper down the current extended possession notice periods. In view of that, what plans do the Government have to prepare for the implementation of the road map to assist private renters and their landlords?

Furthermore, it needs to be recognised that the majority of tenants now in arrears do not qualify for financial support in the form of discretionary housing payments. What assistance can be provided for them? This is supported by Citizens Advice, the Resolution Foundation and the debt charity StepChange.

2.49 pm

Lord Carrington (CB) [V]: My Lords, I declare my interests as set out in the register. I welcome this statutory instrument and the delay until 31 May, but, like others, I would like an assurance from the Minister that the promised return to normality will encompass all the ministries involved in this complicated issue, such as the DHCLG, the DWP, the Treasury and, of course, the Ministry of Justice, so that a comprehensive solution is delivered rather than the current series of sticking plasters. Such is the conclusion of the Housing, Communities and Local Government Select Committee.

The biggest problems are with the private rented sector. Among the actions needed are measures to tackle growing rent debt so that existing tenancies can

[Lord Carrington]
be sustained and tenant credit scores are protected from the consequences of county court judgments on evictions. It is also inappropriate to regard the private landlord as a bank. Most landlords are private individuals and have their own financial commitments to discharge. Hence, I repeat the request, mentioned also by the noble Lord, Lord Shipley, that the Government give interest-free hardship loans, payable direct to the landlord and repayable as tenants' finances recover. Similar schemes exist in Scotland and Wales and have been welcomed by some housing charities.

Secondly, the speeding up of the court process, which has been called for by the House of Lords Constitution Committee, is essential. Can the Minister comment on the possibility of remote hearings using video technology? At present, I understand that, even without the effect of Covid measures, it takes an average of 12 months for a landlord to secure possession.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): As the noble Baronesses, Lady Uddin and Lady McIntosh of Pickering, have withdrawn, I call the next speaker, the noble Lord, Lord Bhatia.

2.52 pm

Lord Bhatia (Non-Afl) [V]: My Lords, this SI has been prepared by the Ministry of Justice. Its purpose is to protect public health and reduce the public health risks caused by the spread of severe acute respiratory syndrome coronavirus 2, which causes the disease, Covid-19. The SI prevents the enforcement of evictions against residential tenants other than in the most serious circumstances and was originally extended to 21 February 2021. By restricting the enforcement of evictions at a time when pressure on public services is acute and the risk of virus transmission is high, this measure will help control the spread of infection and prevent any additional burden falling on the NHS and on local authorities in their work providing housing support and protecting public health.

A previous version of this statutory instrument was introduced on 7 January, when the previous regulations expired, having been made under the emergency procedure and automatically ceased to have effect.

2.53 pm

Baroness Gardner of Parkes (Con) [V]: My Lords, as the Minister may recall, I spoke on these regulations back in February when they were initially brought before this House, so I shall not speak in any detail today. I am a landlord myself, as disclosed in the register of interests, but I think these regulations are needed. However, I wish to make a general observation regarding timing. It helps neither tenants nor landlords for these regulations and any extension to them to be brought in so very late in the day and then brought to this House afterwards. Given that we were in national lockdown from January, with the road map beginning to lift restrictions only from 29 March 2021, it can have taken no one by surprise when the regulations were brought before the House in February that a deadline at the end of March would be far too soon and would need to be extended.

I wonder whether the Minister would be better off setting a longer deadline now. It cannot help tenants living on the edge of whether they have protection, nor landlords seeking their properties back, to have a date which rolls ahead at such short notice. Anecdotally, I have heard of some tenants gaming the six months or more rent arrears provision in the regulations, leaving their landlord unable to gain possession yet still suffering five months' rent arrears. If these regulations return to the House for a further extension, will the Minister look at whether there is some way to help landlords in these gaming situations?

2.55 pm

Baroness Grender (LD): My Lords, I thank the Minister for his explanation of the welcome extension until 31 May 2021 of the ban on bailiff enforcement, as described by him in the previous debate on this statutory instrument on 18 March. We recognise the work he has put in, particularly over the past few months, to ensure that this extension was already in place, but if we look over the past year of this pandemic, I think he would agree that to say that this approach has been piecemeal is an understatement. As ever, it is an honour to follow the noble Baroness, Lady Gardner of Parkes, who made the same point.

Last Friday marked the second anniversary of a promise made by this Government to scrap Section 21 no-fault evictions. Gemma Marshall, who has spoken out, with the support of the Renters Reform Coalition, works in a school providing pastoral support. She, her husband and her children have been served with two Section 21s over the past two years and as a result have had to move four times. Her family is now in the middle of their second Section 21 and is facing the serious prospect of homelessness. Her son Jacob is autistic and finds change extremely stressful. I think all noble Lords would agree that the threat of eviction during a global pandemic is extremely stressful anyway, let alone for a nine year-old child.

I hope all noble Lords will support the newly formed Renters Reform Coalition, which includes Generation Rent, Crisis, Shelter, Citizens Advice and the Joseph Rowntree Foundation. As my noble friend Lord Shipley pointed out, the historical lack of the safety net of a good supply of social housing has resulted in people relying too often on a private rented sector that is not built to replace the welfare state. Gemma's case is not an isolated one. Some 700,000 renters have been served with no-fault eviction notices during this pandemic year, despite a government promise to scrap the practice. That estimate is based on polling of a cross-section of private renters in a Survation survey commissioned by Shelter and published last week. Some 8% of them have received a Section 21 notice from their landlord since March 2020—that represents 694,000 private renters across England. A further 32% were worried that they would be asked to move out this year.

While 8% sounds small, the size and growth of the private rented sector over the past 10 years means that even 8% is nearly 700,000 cases—cases like Gemma's, which I have described: often families who, through no fault of their own, have been served with an eviction notice without reason or explanation.

This SI stops bailiffs, but only at the final stage of an eviction. Your landlord may still serve an eviction notice and you may still have to go to a hearing. From the minute the eviction notice is served there is limited ability for discretion in the legal process. I asked this question last time and I am not sure I quite got an answer to it. Will the Minister undertake to re-examine allowing judges to have discretion to prevent an eviction if rent arrears are due to the Covid pandemic? The Government might argue with the methodology Shelter has used. If so, will they agree to establish a way to identify who is currently losing their home?

Tim Farron, who speaks on Housing issues for the Liberal Democrats in the Commons, asked the Minister, Chris Pincher, whether he had made any assessment of the merits of requiring landlords to register eviction notices at the point of delivery, so that his department could have a more accurate picture. I asked in the previous debate whether the Minister could share with us what evidence he has that landlords are serving notice in only the most egregious of cases. I not sure there was a clear answer to my question and the Minister, Chris Pincher, said there are currently no plans to collect this data.

I hope that the promise to reform Section 21 will soon be delivered. I thank the National Residential Landlords Association for its helpful briefing on this issue. As it points out, the Housing Secretary's promise that

"no renter who has lost income due to coronavirus will be forced out of their home"

is simply not being met. Indeed, I believe that the recent change to include six months of arrears is a direct contradiction to that promise. The fact that we know that there are 700,000 such renters means that people get evicted all the time without it necessarily reaching the knowledge of the Government via the courts. Along with many other organisations, the NRLA is asking that a financial package be put in place to help tenants to clear arrears—this was described by the noble Lord, Lord Bourne, who is highly knowledgeable on this issue, and the noble Baroness, Lady Ritchie, who also has long-time experience in this area—or there is Generation Rent's proposed Covid rent debt fund.

It is particularly important to note that the NRLA is saying that most tenants now in arrears do not qualify for discretionary housing payments. It is vital to remember that the people we are talking about are ones who, Citizens Advice tells us, are tenants who would take seven years to pay off the arrears that they have accrued during this period. I still find shocking the disparity in subsidies to home owners—even more of them were announced today—in comparison to the subsidies necessary, which do not represent a vast sum of money.

So, there have been two broken promises, which have an impact on hundreds of thousands of people like Gemma and Jacob. They deserve better.

3.02 pm

Lord Ponsonby of Shulbrede (Lab): My Lords, as the Minister said in his introduction, this is the fourth time that this instrument, or a similar one, has been introduced into this House. The Explanatory Memorandum states:

"This instrument extends the prevention of enforcement of evictions, including the service of notices of eviction, at residential premises, and including in repossessions cases, other than in the most serious circumstances, from 31 March 2021 until the end of 31 May 2021."

It makes no further changes to the previous regulations and only extends the time period during which those provisions are in force.

My recollection is that the bulk of our previous debate—on 18 March—was about how to avoid the cliff edge; a number of noble Lords have referred to that in this debate. The Minister's speech concentrated on the timetabling and the justification of the various timetabling measures that have been taken; it did not dwell on the substance of the financial support that needs to be introduced to avoid mass evictions, unsustainable levels of debt and turning the current health crisis into a potential homelessness crisis.

It appears that we all received the briefing from the NRLA; the noble Lords, Lord Carrington, Lord Shipley and Lord Bourne, and the noble Baronesses, Lady Ritchie and Lady Grender, referred to it. I thought that it was balanced and put forward a clear case for interest-free, government-guaranteed tenant hardship loans. As we have also heard, the Scottish and Welsh Governments have put in place their own form of financial support for tenants. My noble friend Lord Hain brought up an additional factor, on which I would be interested to hear the Minister's response, which is to look at modifications to the home-buying process for people whose attempted purchases of houses have fallen through because of Covid restrictions.

The Labour Party has put forward its own six-point plan, which I shall briefly go through. It plans: first, to extend a ban on evictions and repossessions until restrictions are over; secondly, to extend mortgage holidays; thirdly, to raise the local housing allowance to cover median market rents; fourthly, to reform housing law to end automatic evictions through the courts—a point on which the noble Baroness, Lady Grender, elaborated to great effect; fifthly, to reduce the waiting period to receive support for mortgage interest payments; and, sixthly, to retain the £20 uplift to universal credit beyond six months, end the five-week wait and suspend the benefits cap.

On 18 March, when we last debated a similar measure, the noble Lord, Lord Wolfson, described himself as a

"humble Ministry of Justice Minister"—[*Official Report*, 18/3/21; col. 481.]

and undertook to consult his MHCLG colleagues about the Scottish scheme. I would not presume to judge whether he is humble or not but he speaks for the whole of the Government when he speaks as a Minister, and the substance of today's debate, as it was on 18 March, is financial support, which all noble Lords are looking to hear about. I look forward to him saying with more substance when we are likely to hear what that financial support will be.

3.06 pm

Lord Wolfson of Tredegar (Con): My Lords, I am very grateful to all noble Lords who have contributed to this debate. I shall try to respond to the points in the order in which they were made but some were made by more than one contributor so, with their permission, I may lump some noble Lords together.

[Lord Wolfson of Tredegar]

The noble Lord, Lord Hain, made an interesting point, if I may say so. One must distinguish the cases into two groups. The first is where contracts were entered into after the start of the pandemic. In those cases, one would have expected the parties' lawyers to advise them not to enter a legal commitment to make a purchase unless they knew that they could complete; the government guidance on moving home during the pandemic has been in place since 26 March 2020. However, in so far as people entered into legal obligations before that date, there are principles of English contract law, such as frustration, which might be relevant in this context. That is the sort of point on which, if the noble Lord will allow me, I will write to set out in a little more detail what I understand the legal position to be.

Turning to a number of points made by noble Lords, first, I should make it clear that, on 18 March, I set out that the Government would extend the SI not just to 31 March but to 31 May, so criticism that we have been doing this on a short-term basis is not well made, certainly in that respect.

A number of noble Lords asked about the plan for when we come out of the pandemic. I reiterate that I am a humble Ministry of Justice Minister. There are cross-government conversations about what will be put in place but, so for as a specific financial package is concerned, we have already done a number of things. For example, we have increased the local housing allowance rate to the 30th percentile of local market rents in each area. We expect that to provide 1.5 million claimants with around £600 per year of housing support more than they would otherwise have received. Those increased rates will be maintained at the current levels, in cash terms, in the current financial year—even in areas where the 30th percentile of local rents has gone down.

Going forward, however, I emphasise that this ultimately becomes a housing issue, not a Ministry of Justice issue. Of course, there are conversations across government; as I said, I will specifically bring the detail of this debate to the attention of Ministers in MHCLG. Although I appreciate that this point was made by a number of noble Lords—my noble friend Lord Bourne of Aberystwyth, the noble Lord, Lord Carrington, and the noble Baroness, Lady Grender—there is nothing more substantive that I can say this afternoon, bearing in mind that, as the noble Lord, Lord Ponsonby, reminded me, in whatever I say, I commit the Government too.

The noble Lord, Lord Bilimoria, rightly emphasised the important work that the Government have done with regard to commercial evictions. In both the commercial and residential contexts, it is our intention to avoid any sort of cliff edge.

I underline the noble Lord's point about the importance of mediation. Mediation in civil disputes is always a very good idea. It has played a part in our civil justice system over the past 20 years or so and its importance is increasingly recognised. In the context of housing, we hope the free mediation service for landlords and renters will enable many landlords and their tenants to reach an agreement about the way forward without a formal court process, which must be to everyone's benefit.

When I mentioned my noble friend Lord Bourne of Aberystwyth, I should also have picked up the beautifully double-edged compliment that he paid me, which started so well and ended so badly.

The noble Baroness, Lady Ritchie of Downpatrick, asked a couple of questions about speeding up the operation of the courts. There are a number of things that I should say in this context. First, as I say, landlords are obliged to reactivate old cases in order to make sure that the courts are not faced with cases that have become moot—for example, where the tenants have already moved out. Secondly, the introduction of mediation also speeds up the court process because it takes some cases out of the system.

Further, and in response to the noble Baroness, Lady Grender, one has to remember that parts of the court process lie outside government purview. For example, listing is a judicial function, and the order in which the judiciary prioritises cases is and remains a matter for the judiciary. However, the Master of the Rolls' working group has put in place temporary court rules and arrangements to ensure that cases proceed through the courts as quickly as possible and that delays are kept to a minimum.

I respectfully agree with the point made by the noble Lord, Lord Carrington, that private landlords are not a bank. I have already said that there will be discussions across government about the position that is put in place when these regulations come to an end.

The noble Lord asked specifically about video technology to speed up the court process. That is already being used throughout civil courts. In this as in many areas of life, the Covid-19 pandemic has forced or perhaps encouraged us to do things that we probably would have done anyway but over a longer period. Video technology in court is certainly one of those things; it is now part of our civil justice system and I am sure it will remain so in future. The noble Lord is certainly right that video technology has the potential to speed up cases and enable them to be heard more quickly, and indeed to enable more cases to be heard at once.

The noble Lord, Lord Bhatia, emphasised in his remarks that what is sought to be achieved here is ultimately a balance between the various interests, and I respectfully agree with him.

I hope I have responded to the points made by my noble friend Lady Gardner of Parkes. I have dealt with the date point. We believe that 31 May is now the appropriate deadline for these regulations. We hope that the position will improve as per the road map and that we will not need to extend them thereafter, but obviously we have to keep that under constant review.

In the time that I have left, I turn to the points made by the Front-Bench speakers. I have already dealt with one of the points made by the noble Baroness, Lady Grender, but in response to her important point on Section 21, the Government are committed to bringing forward legislation to deliver a better deal for renters, including repealing Section 21 of the Housing Act 1988, once the urgencies of the pandemic have passed. That would represent a generational change to tenancy law in England, so we have to make sure that we get it right and that we balance the interests of

landlords and tenants appropriately. If we are giving tenants more security of tenure, we must also ensure that landlords can recover properties where they have valid grounds to do so.

As far as the noble Baroness's other point about giving judges more discretion in possession cases is concerned, we do not intend to bring forward such legislation. We believe that the current support package strikes a fair balance and that the rights of both tenants and landlords are appropriately balanced in this area. However, as I said, we plan to bring forward a renters' reform Bill in due course, once the urgencies of the pandemic have passed. Respectfully, I therefore do not accept that promises have been broken. We made a promise to do the best we can in these difficult circumstances, and we have certainly fulfilled it, as I have explained on several occasions.

The noble Lord, Lord Ponsonby of Shulbrede, asked about the package going forward. I have said what I am able to say about that today. Like me, he found the point made by the noble Lord, Lord Hain, about home buying interesting. I will ensure that he is copied into my letter to the noble Lord, Lord Hain, on that matter.

I am grateful to the noble Lord, Lord Ponsonby, for outlining the Labour Party plan in this area. I do not want to introduce too much of a political element to these exchanges, but the plan highlights the point about where you draw the line. For example, we were told that the £20-per-week universal credit increase would remain beyond six months, but until when?

Ultimately, we must strike a balance in this area. I submit that these regulations strike the correct balance in difficult circumstances. I hope that we will not have to extend them further and that life will return to something approaching normal, so, although I have some regrets that this may be the last outing for these regulations, I commend them to the Committee.

Motion agreed.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): The Grand Committee stands adjourned until 3.45 pm. I remind Members to sanitise their desks and chairs before leaving the Room.

3.17 pm

Sitting suspended.

Arrangement of Business

Announcement

3.45 pm

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person, respecting social distancing, others are participating remotely, but all Members will be treated equally. I must ask Members in the room to wear a face covering except when seated at their desk, to speak sitting down and to wipe down their desk, chair and any other touch points before and after use. If the capacity of the Committee Room is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. If there is a Division in the House, the Committee will adjourn for five minutes. The time limit is one hour.

Civil Proceedings Fees (Amendment) Order 2021

Considered in Grand Committee

3.45 pm

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

That the Grand Committee do consider the Civil Proceedings Fees (Amendment) Order 2021.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Wolfson of Tredegar) (Con): This instrument aligns the fees for online and paper civil money and possession claims. The instrument applies to fees in the civil courts of England and Wales and will come into force in May 2021.

First, I shall say a word or two about the purpose of the instrument. Her Majesty's Courts and Tribunals Service plays an essential role in our society. Courts and tribunals provide a place where people can vindicate their rights and where the rule of law is upheld, and which is accessible to all who need it. I am proud to say that our courts and tribunals deliver a world-class justice system which is admired by all. The people it serves interact with it at some of the most difficult times of their lives and they trust it to be fair and effective.

For many years, the service has run on the principle that those who use courts and tribunals should pay the full cost of the service they receive, if they can afford to do so. I am sure that the Committee will agree that fees are a reasonable means of ensuring an effective and efficient justice system that is neither solely nor entirely sustained by contributions from the taxpayer. Fees are the main source of direct income for courts and tribunals, and the instrument I am submitting to the attention of the Committee today will further aid this endeavour.

Civil money and possession claims, which are the type of claims affected by this instrument, are regulated by the Civil Proceedings Fees Order 2008. Currently, the fees order offers lower fees, and some exemptions, for civil money and possession claims submitted via online platforms, with a higher fee payable for the same claims issued via the paper route. The instrument before us today removes the online discount and thus aligns the online fees with the paper fees which are currently charged in the Civil Proceedings Fees Order. More specifically, this instrument aligns fees for users of the County Court Business Centre, Money Claim Online, Possession Claim Online and online civil money claims.

Aligning these fees will create a single fee structure which will result in one, consolidated fee, payable by both online and paper users. In doing so, it will also provide much-needed additional funding to our courts and tribunals service. The need to ensure that courts and tribunals continue to perform efficiently and effectively is compounded by the challenges we are facing due to the pandemic.

[Lord Wolfson of Tredegar]

This, therefore, is the right time to consolidate these fees. The online services were first introduced 20 years ago, in 2001, as part of the Government's ambitious plans to digitise the service and contribute towards improved performance and increased functionality, while streamlining existing processes. To encourage uptake of what was then a new digitised system, a number of fee discounts for the online processes were introduced. They have therefore been enjoyed by users for many years. Users who issue bulk claims have had a discount on the issue fees since 2004, fees for claims issued via Possession Claim Online have been discounted since 2006, and fees for claims issued via Money Claim Online have been discounted since 2015.

I am pleased to say that the Government's efforts have paid off. In 2018-19 online applications for civil and possession claims accounted for just under 90% of all claims up to the value of £100,000. So, the modern service is allowing 90% of users to enjoy a seamless journey from lodging a claim right through to settling the dispute as simply as possible. As part of this, users have the opportunity to access mediation as part of efforts to support more proportionate and appropriate dispute resolution.

The Committee will need no reminder from me of the Lord Chancellor's personal and statutory duty to protect access to justice. The Government remain committed to upholding this fundamental principle, so we must provide an effective and efficient justice system that works for everyone. That means it has to be funded appropriately.

Removing the online discount does not infringe the principle of access to justice. Paper users are already paying a higher fee, and generally those individuals are over-represented among groups with protected characteristics. So, while we want the system to be funded effectively, we also want to build a fairer system that puts neither paper nor online users at a disadvantage.

The Committee should be familiar with the fees we are debating. They are enhanced fees, meaning that they are set above the cost of the service. Such fees can be set only with explicit parliamentary approval, following the introduction of the "enhanced power" provision in Section 180 of the Anti-social Behaviour, Crime and Policing Act 2014. The enhanced power is therefore used in a judicious and limited manner, because most fees in courts and tribunals are set not under the enhanced power but at or even below the cost of providing the service.

The income raised from enhanced fees such as these enables us to cross-subsidise other parts of the courts and tribunals system. That enables us to ensure access to justice for everybody. We do so to protect the most vulnerable members of society. This is not an exhaustive list, but, for example, no fees are now charged for applications for non-molestation orders, occupation orders, forced marriage protection orders or female genital mutilation orders—or for cases before the First-tier Tribunal concerning mental health.

Despite the provision of these enhanced fees, the income currently received from fees covers less than half the costs of running the courts and tribunals. In 2019-20 there was a net fee income of £724 million, against running costs of about £2 billion. That significant gap in funding should highlight for the Committee why the fee increase that this instrument introduces is appropriate, balanced and fair.

Of course, I do not claim that the additional income generated by these proposals will, alone, fill the gap. But it will certainly help the justice system to be better equipped for the many challenges it faces and will supplement the additional funding already being provided by the Government to aid Covid-19 recovery.

I should emphasise that for the vast majority of fees affected by this instrument, the proposed increase is generally modest, ranging from about £10 to £45—and every pound can be reinvested in our ambitious plan for the future of the Courts and Tribunals Service. That is in addition to the £377 million for the criminal justice system in England and Wales, including £275 million to manage the downstream impact of 20,000 additional police officers and to reduce backlogs caused by Covid-19 in the Crown Courts. There is also an investment of £76 million to increase family court and employment tribunal capacity to reduce backlog, £43 million to ensure courts and prisons remain Covid-safe, and £105 million for improvements to the court estate.

The Committee will be aware of the unprecedented challenges that this country has faced because of Covid-19. However, it is important—indeed, critical—to ensure that our world-class justice system operates efficiently and effectively, while minimising the cost to the taxpayer. This instrument allows us to do more work to achieve that aim. It aligns fees for civil money and possession claims, contributes towards the funding of courts and tribunals, and ensures that the existing civil fee structure is both fair and consistent. I therefore commend these fee changes to the Committee.

3.55 pm

Lord Blunkett (Lab) [V]: My Lords, I am grateful to the Minister for his explanation. I have joined the Grand Committee's consideration of this instrument this afternoon as much to learn as to contribute. Given the expertise of those few Members online, I am hopeful that I will be more enlightened at the end of this discussion than I am now at the beginning of it.

I very much appreciate the importance of raising the funds necessary to enhance the tribunal and court system. I understand entirely from the explanation given of the £724 million that has been raised towards the £2 billion total cost of the process. However, I am unclear about the exact cost of this particular process—that is, the procedure in relation to the restriction of funds and property. I would be really grateful if the Minister could clarify this small point for me in his reply. He was good enough to indicate that more money is raised from these charges than the cost of the service itself.

I understand why the list of tribunal activities that the Minister gave us in his earlier contribution should be free. It seems right that the taxpayer should pick up those particular examples because, of course, they relate to very personal issues, such as mental health issues, that require us as a community to fund them. However, it appears that what is actually happening is we are asking those who use the procedure that we are

discussing this afternoon to enhance payments in order to subsidise precisely those kinds of activities. It would therefore be useful to know the true cost of this particular element of the courts and tribunals system and of the procedure that we are discussing.

I have no objection to aligning the fee between paper and online in the way that has been described, although clearly it will be an increase for the vast majority of potential users compared with the situation today. It would be helpful to know just how much that additional contribution of between £9 million and £25 million, which will come in next year, will actually make given the cost of implementing the procedure as a whole.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): The noble and learned Lord, Lord Woolf, has withdrawn so I call the noble Lord, Lord Thomas of Gresford.

3.58 pm

Lord Thomas of Gresford (LD) [V]: My Lords, this is the sort of instrument to slip under the radar at the end of a Session. The proposal is to increase the fees for bringing money and possession claims, for the benefit of the Treasury.

It was a benefit to individuals, and to businesses both small and large, to commence proceedings by way of an online application. I can remember my days as an articled clerk when I made out the paperwork, physically took it to the registry of the High Court or the county court, handed it over the counter and payed the fees. Obviously, it is infinitely preferable to do all this online, not only for the poor old solicitor's clerk but for the court staff in the registries up and down the country.

There must be an enormous saving in efficiency and time. It is not surprising that, as the Explanatory Notes made clear, 90% of claims are now launched online. To incentivise this increase in efficiency, fees were reduced for online applications, presumably still covering the reduced costs of filing. So there were, and are, two levels of fees: those for online applications, which are efficient and take less time, and those for paper applications in the old way, which obviously consume more time and resources.

One might have thought that in order to help, in particular, individuals and small businesses, who are the people most often chasing money from larger clients such as government departments, the Government would have equalled the fees by choosing the lower figure, but not at all; the watchword is "levelling up". So this instrument is brought forward to make sure that individuals and small businesses pay more in order to pursue their claims. At a time when small businesses in particular are suffering greatly, many unlikely to survive the pandemic crisis, the Government are loading more expense upon them to the tune of up to an expected £25 million next year.

To add insult to injury, the note accompanying this instrument and the impact assessment proceed upon the curious premise that there is no impact at all on businesses and individuals because this is not an inevitable business expense. You can choose to pursue the money that you are owed—or recover the premises, if it is that sort of application—or, on the other hand, you can decide to do nothing. If you decide to do nothing then you do not have to pay any fees. That is the incredible argument for saying that there is no impact.

The noble Lord, Lord Blunkett, asked a very pertinent question: what is the actual cost of the filing of these proceedings? I have other questions. What percentage of the stakeholders on the consultation that took place responded to say that they were in favour? How many said they were willing for the fees for the more efficient online commencement of proceedings to be raised to match the fees for the less efficient paper service? I hope the Minister will answer those questions.

4.02 pm

Lord Ponsonby of Shulbrede (Lab): My Lords, we on the Labour Benches accept that those who cannot access the internet for one reason or another should not have to pay more for the same service. Having accepted that, we note that there is a net increase above inflation for most users—that is, the 90% of users who currently access civil proceedings online.

We accept that HMCTS is running at a huge deficit and the Government must take action in the interests of justice to reduce that deficit. In his introduction, the noble Lord, Lord Wolfson, gave the figures that are in the Explanatory Memorandum: in 2019-20 there was a net fee income of £724 million against £2 billion of running costs for HMCTS, and that gap in funding has to be paid for by the taxpayer.

The question that we have heard asked by both the noble Lord, Lord Thomas, and my noble friend Lord Blunkett is about the likely overall impact of this change in fees. From my reading of the papers, the impact assessment claims that the alignment of the fees could save about £20 million per year. That saving in comparison to the massive deficit shows that it really is a drop in the ocean.

The problems faced by HMCTS are colossal and represent decades of underinvestment that have brought the system to its knees, with a record backlog to match. HMCTS has lost one-quarter of its budget in the last decade. Courts have been sold and sitting days have been slashed, and all this was happening long before Covid. It is the victims of crime who are paying the highest price for this negligence. While we support—or rather we will not oppose; I will phrase it like that—this increase in civil proceeding fees, we think there is a much larger problem to be addressed. I look forward to the Minister's explanation of how the larger funding problems will be addressed.

4.05 pm

Lord Wolfson of Tredegar (Con): My Lords, I am grateful for the contributions to this short but important debate; anything to do with our justice system is important. Perhaps I may therefore pick up in turn the points made by noble Lords.

The noble Lord, Lord Blunkett, asked about the principle of cross-subsidy and the amounts involved. I shall deal with each point in turn. The principle of cross-subsidy is in primary legislation; it was considered by Parliament as a matter of principle and considered

[Lord Wolfson of Tredegar]
correct for those who can pay more than the actual cost of the process to do so, so that other people can pay less than the actual cost of the service. So the principle of cross-subsidy is in primary legislation, as I have set out.

As to the figures involved, the Courts & Tribunals Service produces an annual report. The accounts for the year ending 31 March 2020 show that approximately £550 million of fee income was collected from court users in civil proceedings after fee remissions, whereas approximately £545 million was spent on civil jurisdiction, leaving a surplus overall of £4.9 million. Civil business as a whole—that is, civil and family jurisdictions together—showed a deficit of £80.1 million in the financial year, which was funded therefore by the general taxpayer. I shall look at the *Official Report* and, if I can provide the noble Lord, Lord Blunkett, with any further detail on particular figures, I shall write to him and set it out and copy my letter to other noble Lords who spoke in this debate.

I turn to the contribution of the noble Lord, Lord Thomas of Gresford. This provision is not being slipped "under the radar" at all. I have to say that I was a little surprised that the import of the noble Lord's comments appeared to be that those who did not have internet access or capability should continue to pay more—more, indeed, than 90% of users of the service. I find that a remarkable proposition, but it is the necessary import of the approach that the noble Lord took. That is even more remarkable when one recalls, as I said when I opened this debate, that the paper group, if I can call them that, contains more people with protected characteristics proportionately than the online group. When one has 90% of people online, one has to level the fees.

The only real question is whether you move the online to the paper or the paper to the online. The position is this: were we to move paper to online, that would cost another £5 million in lost income to the service, which is another increase that the taxpayer would have to fund and a greater loss that the courts and tribunals would therefore be working under. Although I agree with the principle of equalising fees, one ought to equalise online to paper and not paper to online. The justification for a lower fee for online users, which was originally brought in to encourage people to go online, is, for the reasons I have set out, no longer present.

So far as the stakeholders are concerned, it is fair to say that a minority of respondents supported the proposal, but the main sticking point was the principle of cross-subsidisation in the first place. As I have said, that principle was established by Parliament in the Act that I mentioned and is therefore the legal background against which we operate.

Finally, on the, if I may respectfully say, more realistic contribution from the noble Lord, Lord Ponsonby of Shulbrede, he will understand that I do not accept the adjectives he used about the Courts Service, but I certainly agree that, after Covid, we need to rebuild the Courts Service and ensure that people obtain in the courts and tribunals the sort of service they are entitled to expect. He focused on the victims of crime. While I do not minimise the issues which we have to deal with in the criminal justice system, I hope he will allow me to say that because this is a civil measure, I will not respond to those comments in detail today. I am sure we will have many opportunities in the Chamber and in Grand Committee to debate the criminal justice system, the Crown Courts and the magistrates' courts, and I look forward to engaging with him—I am sure constructively—on those occasions. For today, the instrument before us focuses solely on civil justice and, for the reasons I have set out, it is a measure which is both necessary and proportionate. I therefore commend it to the Committee.

Motion agreed.

The Deputy Chairman of Committees (Baroness Henig) (Lab): The Grand Committee stands adjourned until 4.20 pm. I remind Members to sanitise their desks and chairs before leaving the Room.

4.11 pm

Sitting suspended.

Arrangement of Business

Announcement

4.20 pm

The Deputy Chairman of Committees (Baroness Henig) (Lab): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person, respecting social distancing, while others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to wear a face covering except when seated at their desk, to speak sitting down and to wipe down their desk, chair and any other touch points before and after use. If the capacity of the Committee Room is exceeded, or other safety requirements are breached, I will immediately adjourn the Committee. If there is a Division in the House, the Committee will adjourn for five minutes.

The time limit for debate on the following statutory instrument is one hour.

Single Use Carrier Bags Charges (England) (Amendment) Order 2021.

Considered in Grand Committee

4.21 pm

Moved by ***Lord Goldsmith of Richmond Park***

That the Grand Committee do consider the Single Use Carrier Bags Charges (England) (Amendment) Order 2021.

Relevant document: 46th Report of the Joint Committee on Statutory Instruments (Special attention drawn to the instrument).

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con) [V]: My Lords, the statutory instrument before the Committee today was laid before this House on 4 March 2021. The Government are committed to eliminating plastic waste and the terrible effect it has

on the environment. The use of single-use plastic items and their inappropriate disposal continue to raise significant environmental issues.

Unlike other materials, such as paper or wood, plastic can persist in the environment for hundreds of years. If released into the environment, items such as single-use plastic bags can damage habitats and endanger wildlife, as plastic items are often mistaken for food by animals. Furthermore, plastic that escapes into the environment will eventually break down into microplastics, which permeate our food chain as well as ending up in our soils and seas, the full impacts of which are still being uncovered. Even when single-use plastics are properly disposed of, they will typically end up in landfill or be incinerated, which releases carbon and other greenhouse gases into the atmosphere.

So action is needed to curtail the use of single-use plastics and their release into the environment. The proposed measures in the resources and waste chapter of our Environment Bill will transition us towards a more circular economy and change the way we use and consume resources by keeping them in the system for longer to extract maximum value from them, but there is much that we can already do to address the issue of single-use plastic, including through our highly successful carrier bag charge.

This statutory instrument will amend the Single Use Carrier Bags Charges (England) Order 2015 to extend the requirement to charge for single-use carrier bags supplied to customers to micro, small, and medium-sized enterprises and will remove the exemption from charging from airport sellers. It will also increase the minimum mandatory charge for single-use carrier bags from 5p to 10p.

Since the charge was first introduced in 2015, the Government have successfully prevented billions of plastic bags being sold and ending up in the ocean and environment. We have seen a reduction in the use of single-use carrier bags by 95% in the main supermarkets and more than £150 million donated to good causes. As a result of the carrier bag charge, the average person in England now buys just four bags a year from the main supermarkets, compared with 140 in 2014.

By extending the charge to all retailers, Ministers want to see bag usage cut significantly in small shops as well, with customers incentivised to use long-life bags made from more sustainable and environmentally-friendly materials. Micro, small and medium-sized enterprises circulated around 3.2 billion single-use carrier bags in 2018, which accounts for more than 80% of the single-use carrier bags in circulation in England.

This intervention is a strong marker of the Government's intention to clamp down on single-use plastic pollution and protect our environment for future generations. When taken in conjunction with our wider policy approach to transition to a more circular economy, this will be another landmark moment following the straws, cotton buds and stirrers ban in October last year. To reduce the burdens on businesses, reporting requirements on the number of single-use carrier bags sold annually will not be extended to businesses with fewer than 250 employees.

We are determined to get this right, and it is vital that businesses and the public are informed about what they can and cannot do. Guidance will be published shortly after these debates explaining the legislation in detail to businesses and the public. Informal guidance has already been shared with businesses to help them prepare for the upcoming legislative changes. To ensure compliance, we have given trading standards authorities the powers they need for this type of restriction, for example, to enter and examine premises they suspect are in breach of the law. Anyone found not to be charging for single-use plastic bags in line with this legislation could face civil sanctions such as stop notices or a variable monetary penalty. Of course, we hope that these enforcement measures will not be necessary, but the regulations need to have teeth to show that this Government take plastic pollution seriously.

These new regulations send a signal to industry and the general public that we need to think carefully about the bags we use and the materials from which they are made. The regulations will help people to make more sustainable choices and are an important step towards a more circular economy. I beg to move.

4.25 pm

Lord Campbell-Savours (Lab) [V]: My Lords, this order, with its 10p charge, will have little effect on a huge problem that is well known to this Minister, with his long and admirable track record on the environment.

I have a single question, which I have already notified to the Minister's officials. Why do we not just set a date in law, perhaps up to two years beyond which it would be unlawful to sell or supply single-use product packaging in the form of a plastic bag that is not fully biodegradable? Here, biodegradable is to be defined as being capable of decomposition by bacteria or other living organisms within a six-month period in any conditions, to include open disposal sites or the natural environment. At the moment, no such product exists.

Secondly, why not set clear minimum standards on the distribution of a reusable bag for life to include biodegradability requirements with a two-year delay but with an extended biodegradability lifespan of up to two years? I understand that such products are on the cusp of availability but lack legislative incentive and are therefore uneconomic to produce. I support the Green Alliance's proposal for a 70p bag, but it should be top-sliced by law to fund biodegradability research on a bid basis. I also argue that prices should fall as biodegradable target thresholds are met, perhaps to zero for single-use products.

What would the impact of such measures be on manufacturers, distributors and consumers? There would undoubtedly be a shock wave throughout the packaging industry, with howls of protest followed by a measured response and, ultimately, the inevitable avalanche in original thinking, with new products. This is Britain, and that is our forte. Coronavirus vaccine research and research into AIDS antivirals offer clear pointers about how the public and private sectors respond and work collaboratively when faced with crises and problems that require early resolution. Plastic pollution is a crisis.

[Lord Campbell-Savours]

As to the position of distributors, in which I include the retail trade, they will inevitably encounter problems over price and availability. Experience from Ireland suggests that a major shift in reusable bag usage occurs when consumers are faced with sharp increases. Our objective must be to reduce, reuse and recycle if we are to clean up the environment.

During my research, I spoke to an E Dyas store employee who expressed concern over increased pilferage, as it would be more difficult for till-keepers and shop assistants to monitor and police the handling of goods in store if E Dyas was to pursue the approach that I am advocating. She pointed to resistance even to single-use bag charging. These problems clearly need to be addressed, but they are not insurmountable, perhaps with an element of paper substitution.

Finally, on the impact on the consumer more widely, our objective must be to influence personal conduct. I believe that heavy charging for bags in the period of change will help to educate a population with mixed views on environmental protection. I have no doubt that there will be resistance. In a conversation with Mr Zak Lowe of Euro Packaging, Birmingham, a highly informed expert in this trade, with 20 years' experience, his emphasis was on public education. I am afraid I am not convinced that that is enough. However, he had an open mind. I hope that the Government talk to people like Zak. He stands on the front line and would be a good sounding-board for reform by government.

4.29 pm

Lord Robathan (Con): My Lords, I agree with a great deal of what the noble Lord, Lord Campbell-Savours, said, particularly about education. I am not generally in favour of banning anything, but I say to the Government that the fee they instigated for single-use plastic bags has been remarkably successful. I therefore applaud further movement. However, the noble Lord, Lord Campbell-Savours, did not mention how many bags for life are bought. The Green Alliance told me in a briefing that a staggering number of bags for life have been bought and some people buy one a week, which rather spoils the point. I would like the Minister to reply to that.

The Minister talked about plastic and litter pollution, which is what this order is about. He said, "Action is needed", and, "The Government take the issue of plastic pollution seriously". So do I, and so do most people in this Committee. May I take the Minister back to 24 September, when I asked him a Question about how to educate the public? Education surely starts with children. I know from experience, and I suspect other noble Lords know as well, that if your children are banging on at you about something, apart from a swift clip on the ear, which is not allowed these days—certainly not in Scotland—you tend to have to pay attention to what they say. I suggest, as I suggested on 24 September, that every school should spend one afternoon in a child's education—in year 6, say—picking up litter. If children learn that picking up litter is what one should do rather than throwing it, it will eventually—it will take time, possibly a generation—permeate through all sections of society and all age groups. Frankly, it seems a very simple thing to do.

Unbelievably, the current lockdown has led to a huge increase in litter on beaches and in beauty spots. One might have thought that people would go out in the Peak District and not leave litter, but the contrary is true. I was in Devon at the weekend—legally, I should say—with my extremely ill mother-in-law. On Dartmoor, there is a huge issue of people going out and dumping litter. We need to educate people. It is not difficult. It does not have to be about banning things or big fines; we just need to educate people and to start with children in schools. As we all know, children are very keen on environmental matters, if things are presented properly, so I suggest that the Minister goes back to the department and considers what I said to him on 24 September: that I would be happy to join him in a meeting with an Education Minister to explore ways in which we can introduce—perhaps informally to start with—into every child's education an afternoon picking up litter. I did it when I was child; I still do it at nearly 70 in the lane outside my house. My children do it—not all that happily nowadays, in their 20s—to help me. Let us educate children.

There are issues, of course. When I first raised this in the House about three years ago, the Labour Front Bench spokesman accused me of wanting to send children back up chimneys, which seemed slightly far-fetched because I do not. I want children to realise the consequences of dropping litter. There are real safety issues on roads, but there is a safety issue every time a child crosses the road. I plead with the Minister: if we, as a Government, really are going to take litter and plastic pollution seriously, action is needed—to quote his words back to him—and we need to educate children on litter.

The order in hand goes some way, so let us applaud that, but to the Minister—he does not just say all the right things but is, I know, really committed to environmental improvements—I say this: this is one way we could do it and make our lanes, roads and cities a great deal nicer, and, indeed, save a huge amount of money in the long term on clearing up litter.

4.34 pm

Lord Khan of Burnley (Lab) [V]: My Lords, it is a pleasure to speak on this instrument. Like the noble Lord, Lord Campbell-Savours, I absolutely agree that the Minister has a fantastic and admirable track record on the environment. As previous speakers have said, in future, we should be thinking about an overall plastic ban. However, I appreciate that, on the basis of statistics such as those the Minister outlined, the initial 5p charge for single-use carrier bags has been a huge success since it was implemented.

The statistics say that the potential rise to 10p will bring an expected overall benefit of more than £780 million to the UK economy, up to £730 million for good causes, £60 million of savings in litter clean-up costs and carbon savings of £13 million. I would like to ask the Minister about that £730 million for good causes. I see a range of good causes on the government website, but would it not be a good idea for the money made from plastic bag charges to go towards something specifically to do with the war on plastic? We need to incentivise customers to use long-life bags made from sustainable and environmentally friendly materials.

I am not sure whether the Minister has come across Toraphene, an environmentally friendly artificial plastic that costs the same as plastic bags. What about making its use compulsory, as an alternative?

As the Minister will know, I have a habit of listening to schoolchildren. This morning, I spoke to the wonderful children at St Augustine's, in my home town of Burnley. In this time of coronavirus, they have done some innovative work with their local pharmacy to give the elderly some good ideas when they go to collect their prescriptions, keeping them motivated and inspired. They have drawn lots of pictures to make people happy. Something that struck a chord with me was a young child talking about getting rid of plastic and making sure that our oceans are plastic-free.

This is an important instrument that will act as a further deterrent and raise significant money. We need to work out what the Government should do to enhance the education programme further, as previous speakers have mentioned. Overall, the 25-year government plan fits into that. On the subject of cleaning plastic from our oceans, beaches and other areas where it has become an unfortunate cancer in our society, may I ask the Minister what the scope is for using gasification instead of incineration, which still causes pollution and adds to the problems with our ozone layer?

It is heartening to know that the higher charge will come into place but we have to do much more. I think that this will ultimately end in a ban on plastics but, in the meantime, I recognise that this is a positive step forward to add to the previous decision, which the statistics and the evidence show is working well.

4.38 pm

Lord Moynihan (Con): My Lords, I thank my noble friend the Minister for introducing this measure. I shall concentrate my remarks on the effectiveness—or otherwise—of the proposed increase in the charge for disposable carrier bags from 5p to 10p, subject to the existing legislation.

The speech made by the noble Lord, Lord Campbell-Savours, reminded me of hearing, possibly apocryphally, during my days as an undergraduate at University College, Oxford, about a thesis aired by the former and eminent professor of jurisprudence at Oxford, Professor Goodhart—a fellow at Univ, and subsequently master of our college. He put the academic case to his students at a tutorial in college that the optimal way of ensuring total compliance with road traffic law was to issue no fines or penalties but place the name of everyone who had committed an offence into a lottery, draw the tickets each year on New Year's Eve and execute the unfortunate individual whose name was drawn first. So, he argued, the incidence of traffic violations would be solved, and began interesting tutorials challenging students to consider the principles of proportionality, deterrence and behavioural patterns.

When the levy was introduced at 5p and followed by Scotland, which I expect again to be the case on this occasion, my neighbours living in Scotland, on the Ayrshire coast, welcomed the fact that after Scotland's original introduction of the charge in 2016, the number of carrier bags found on Scotland's beaches fell substantially—in fact, by 40%. The Marine Conservation Society determined that there was a further drop of 42% between 2018 and 2019. Adding a value to throwaway items results in long-term behavioural change.

The statutory instrument in front of us today challenges us to question the effect a price rise from 5p to 10p will have on behavioural patterns, if any, and whether a move to 10p, 20p, 50p or, indeed, £1, would have a significant or marginal deterrent effect. Simple changes to our daily routines need catalysts for change, and these charges are a good example. We should also keep in mind the importance of a single coin facility, so it is worth considering whether a 10p, 20p, 50p or £1 charge would meet the relevant punitive threshold and provide the tipping point to see a major change in the use of single-use carrier bags.

For my part, I believe that those who argue that moving to 50p would generate unnecessary controversy are out of touch with public sentiment—and, indeed, the views expressed by the Committee today—as the value of the deterrent is critical in considering what further shifts in consumer behaviour would result. At present, we alleviate our consciences with an associated policy of contributing to good causes. However, ultimately, an entirely successful scheme would result in no money coming in at all.

Of course, this charge applies not just to single-use plastic carrier bags but to all single-use bags; it is not simply about plastic. However, as the Minister has pointed out, this policy must be part of a panoply of measures to encourage good environmental behaviour overall, with the ultimate end of single-use carrier bags in the non-exempted category. The Marine Conservation Society and, in particular, Dr Laura Foster and her team, have done some excellent work on the campaign to add value to throwaway items, but we are a long way from the day when I can walk at low tide on a calm afternoon along Prestwick beach and not have to constantly pick up suffocating plastic washed up on the coastline, which is catastrophic to the marine environment. While I welcome this step, it is only a step, a means towards an end, not an end in itself, and I am not convinced that such a marginal change will see behavioural changes compatible with the proposed charge.

In closing, I hope that the Government will simultaneously make further progress by introducing bag deposit/return schemes, similar to those for drinks containers to encourage people to take back their drinks containers and carrier bags. I also believe a tax on on-the-go items, such as coffee cups, water bottles and plastic cutlery would encourage people to carry reusable cups and bottles, help reduce litter and increase recycling rates. I also support imposing a ban on single-use plastic when dining in restaurants and cafés. As we support this measure today, we should not lose sight of the fact that we still use well over a billion bags a year in the UK. We should be encouraging bags for life. Fortunately, there are other ways to reach the goals, which I share with my noble friend the Minister, without resorting to Professor Goodhart's challenge.

4.43 pm

Lord Mann (Non-Afl): My Lords, we have moved quickly from the moderate social democracy of the Minister's proposals to the radicalism of the noble

[Lord Mann]
Lord, Lord Moynihan, with his high charges and potential executions. I perhaps do not go quite as far as the noble Lord in some of the hints and suggestions that he proffers to the Minister. However, the Minister is a young lad and he does not have the memory of most of us in here—perhaps not all but certainly that I have—of remembering a life before the plastic bag, when one could buy one's shopping with paper bags, or indeed had one shopping bag in which most things were ceremoniously placed, and we were all the better for that. Therefore, it is no surprise to me that the general public, led by wise elders with that experience, have taken very readily to the fact that they do not want to pay for something that is quite superfluous and often a nuisance but which, being very British about it, most are too embarrassed to reject when given, because they do not want to upset or offend the shopkeeper.

Therefore, if we increase the price, people will be even more pleased—not less—because people do not want things they do not need. There is no additional use. I congratulate Morrisons. I am a new convert; I believe that a second delivery arrived this morning just as I was leaving of Morrisons products—traditional products, of course, from the north of England. Nevertheless, there were no plastic bags. I am almost inclined to say that that will be a supermarket of preference, but perhaps the Co-op will quickly catch up with them. But how sensible! I do not need loads of plastic bags for something that is delivered at home.

The Minister needs to look at other departments. Let us have an all-government approach. Someone can go down the road and throw out their McDonalds package, and they can be fined, of course—but how about taking their licence off them? A six-month ban for throwing such rubbish out of a car on to a public highway would affect behaviour and be good not just for the environment but for the safety of every other driver and, indeed, those walking or conveying themselves by other means alongside a highway.

What about this building—the disgrace of all disgraces, the mother of Parliaments, the Palace of Westminster? The Lords is somewhat better than the Commons in the fact that in the Lords it is possible to have—I am certainly offered—non-plastic cutlery. If you go down to the Commons, not just do you get plastic cutlery, but if a simple soul like me wants merely a bowl of porridge and cup of coffee on a morning, they have to have a plastic-wrapped plastic knife and fork along with a plastic spoon. Can the Minister not have words, using his authority, on this absurdity? A spoon would suffice, preferably a washable metal spoon, perhaps made in Sheffield from stainless steel; that would suffice very well—I have managed all my life on them. I do not need a plastic substitute for it with all the other garbage.

When you go for a cup of coffee, in this place like everywhere else, you get a takeaway. But hang on a minute—I do not want to take it that far, I just want to sit down and have it. I would quite like a mug or a cup; a mug will do fine, not a plastic-embossed paper cup with a plastic lid placed on top of it with my health and safety. I have managed, as we have all managed all our lives, for the whole of the last century, to drink tea and coffee out of cups and mugs. We have not needed to have disposables for it. That culture needs changing.

The Minister has a key role, as we all do—but his young energies should be put to this, and this place should be an exemplar not a laggard in dealing with plastic.

4.48 pm

Baroness McIntosh of Pickering (Con): I also welcome this statutory instrument and the regulations before us today and congratulate my noble friend on introducing them so lucidly. I declare my interest as the chair of the Proof of Age Standards Scheme, through which I work closely with the Association of Convenience Stores.

What is curious is that plastic bags are a relatively recent phenomenon. While it may seem very quaint now, I remember that when I went shopping as a youngster with my mother, she always had material or cloth bags, and several of them. I am not quite sure how we disposed of that habit as easily and quickly as we did to embrace this relatively new culture of plastic bags.

I would like to hear more from my noble friend about how the Government intend to incentivise non-use. That is the problem—we can charge for plastic bags as much as we like but, if they are there, we will continue to use them. I do not think brown paper bags are an alternative because when they are wet, as I have found, the produce just slips out of your hands and ends up on the floor. It will be interesting to see how we can explore more positive alternatives.

While I welcome the order, it is some considerable time since the consultation, to which my noble friend referred, concluded on 22 February 2019. I wonder why it taken quite this long to table the amendment order before us today.

I want to press my noble friend on the start date when the regulations will come into effect. Can I assume that the start date is confirmed as 30 April? If that is the case, it does not give businesses very long to introduce the new provisions of the order.

Having said that, I welcome the fact that the Government are going to be sending less to landfill overall and that we will be seeking to recycle more. It is interesting that Denmark has a very good record on reducing single-use plastics and plastics overall. While it was very quick to incinerate and it did so effectively, it is now going away from incineration towards more recycling. We should pause to recognise just how effective many of the recycling schemes by our councils have been, and we should all encourage those which perhaps do not have such a good record to recycle more. However, it is good that my noble friend expressly stated the implications and consequences of the order before us for the circular economy.

I want to press my noble friend on how the Government will prepare customers for the changes, in the sense that it will no longer be a voluntary charge in smaller stores but will be compulsory. I am sure we are all only too aware of the somewhat unwarranted and potentially aggressive responses that have been seen from certain customers going into stores of all sizes—large and

small stores—who fail to wear a mask when asked by those working in the stores for what reason, if they are not exempt, they are not prepared to wear a mask. It is important that we understand precisely how the Government will prepare not just businesses but customers, who are going to be the end users, that they will have to pay these charges now.

Otherwise it is fair to say that businesses are embracing the order. The sector has widely adopted voluntary charging before now, and certainly the Association of Convenience Stores welcomes the exemption from reporting requirements for small businesses.

With those few remarks, with the precise request that I have made that we look to incentivise non-plastic bag use and the use of other materials, having pressed my noble friend on specifically what the Government are doing to encourage those entering small stores to be aware of the new provisions and, lastly, having asked to understand precisely when the order will take effect, I welcome the order.

4.54 pm

Baroness Parminter (LD) [V]: My Lords, like all other noble Lords in Grand Committee today, I support this statutory instrument and thank the Minister for his eloquent introduction.

This measure will certainly be a means, but still only one step, in helping to tackle the damage that plastic causes to our environment. It is no surprise that I support it since it was the Liberal Democrats in the coalition Government who championed the introduction of a levy on plastic bags. Given the success of charging for single-use carrier bags in driving down usage, it is right that we now raise that charge to help to drive it down even further, as the Government's impact assessment indicates that it will.

Equally, I support extending the obligations to all retailers. I was not persuaded at the time of the merits of exemption. Indeed, a number of representatives of small businesses said at the time that they did not oppose being included, so I see the measure as a belated rectification of that.

Having said that, I have three questions for the Minister, which I informed him of in advance. First, why are the Government making the reporting requirements less onerous for franchises? In the draft guidance to retailers on the reporting and record-keeping requirements, there is a section which states that if you are part of a franchise model, whether you report and keep records depends on your size and not the size of the franchise overall. If you own 10 corner shops, each staffed by 24 full-time equivalent people, your total staff head count of 240 people would be below the 250 FTE threshold and you would not have to report. That is different from the way that franchises are dealt with in the current packaging regulations. There, a franchise is covered by the requirements depending on the size of the franchise overall, not the size of the individual franchise businesses. In other words, you could get out of doing anything only if the franchise as a whole fell under the de minimis threshold of how much packaging you used each year.

Will the Minister explain the rationale for the decision to introduce less robust reporting? While it is reasonable that a single family-owner corner shop should not have to report and keep records on bag use, many franchises which are perfectly capable of recording and reporting this information via their head office will not have to as long as they make sure that none of their individual franchises employs more than 250 people. If you run a few corner shops but are part of a franchise, you would get your single-use carrier bags via its head office to reduce packaging run costs and maintain consistent branding. The head office could therefore provide the information for all franchised shops to obey the reporting requirements. Without this, we will not know whether all smaller shops are charging for bags unless local authorities mount secret shopper expeditions. Frankly, given how hard-pressed local authorities are, we know that that is just not going to happen. This is an unnecessary exemption and a retrograde step.

Secondly, do the Government have any plans to introduce mandatory reporting for bags for life? The reporting requirements for single-use carrier bags will change next January, but there is mounting anecdotal evidence of a shift from single-use carrier bags to bags for life. Research in 2019 found that the 10 largest retailers were handing out more than double the number of bags for life anticipated in the Government's initial impact assessment. There have been welcome initiatives. The noble Lord, Lord Mann, referred to one of them: Morrisons' commitment to stop selling plastic bags for life. That it says it will remove 3,200 tonnes of plastic and almost 100 million plastic bags every year gives a sense of the scale of the remaining challenge—as I would call it, the plastic drift from single-use carrier bags to bags for life.

The drift may be accentuated by the low cost of these bags for life—20p when I asked in my local Sainsbury's at the weekend, whereas Green Alliance and the EIA say that Ireland charges the equivalent of 70p, which has led to a 90% reduction in sales. There is also the fact that the money that retailers make on bags for life is all bottom-line profit; unlike with single-use carrier bags, they do not have to donate the money to good causes. I therefore urge the Government to require retailers to report so that the data can be collected so that we will know the size of the bag-for-life market and can determine whether a rise in their cost is now needed.

Finally, I welcome this statutory instrument and other government action, such as the ban on plastic cotton buds, straws and stirrers. Other initiatives, such as the proposed tax on plastic packaging, the Environment Bill's delayed bottle deposit return scheme and the confirmation in a recent Written Answer to me that the Government are minded to ban oxo-degradables, which break down into tiny microplastics, will all be welcome when they eventually see the light of day. In the meantime, there is a real need to tackle myriad other single-use plastic items bloating our supermarket shelves in coffee pods, teabags, single-serve sachets, biscuit trays and fruit punnets, to name but a handful. What further steps are the Government taking now to help retailers get similarly problematic and unnecessary plastic off our supermarket shelves and to enable consumers to play the part they really want to play in tackling plastic waste to protect our precious environment?

5 pm

Baroness Jones of Whitchurch (Lab): My Lords, I thank the Minister for his introduction to this SI. We have ranged far and wide in this debate, even going as far as public executions, but I want to concentrate on the specifics of the SI. Like other noble Lords, I do not oppose the basics of it. However, I must say to the Minister that it is, quite frankly, embarrassing that it has taken the Government so long to bring this proposal forward. Wales introduced a fully comprehensive charge on single-use bags back in 2010. We had to wait another five years before the UK Government introduced a half-measure ban in England applying to larger retailers.

Now, in 2021, the Government are finally catching up with the good practice that the devolved nations have had in place for years. This is despite the fact that, three years ago, the 25-year environment plan committed to extending the application of the 5p plastic bag charge to small retailers and despite the fact that the public consultation on this proposal ended two years ago, in February 2019. That consultation showed there was enormous support from consumers and considerable support from businesses for the proposal, so it certainly does not feel that this simple and popular proposal has been anywhere near the Government's priority list.

However, we welcome the proposal before us as far as it goes, but I have a number of questions which flow from it. First, we support the increase in price from 5p to 10p for a single-use plastic bag, but can the Minister clarify the impact this is likely to have on the sale of the more substantial bags for life, which are currently sold at between 10p and 30p? As has been said, there is an added incentive for supermarkets to prioritise the sales of these bags as they can keep all the income without making a donation to good causes. Already there is evidence that the 95% reduction in single-use plastic bags has seen a corresponding increase in the purchase of bags for life, with the average householder buying 57 bags for life a year according to research from Greenpeace. Has any consideration been given to a substantial increase in the price of bags for life? It has been suggested that a price of 70p would prevent the perverse consequences of this policy change, following the example of Ireland, which priced the bags at 70 cents and thereby cut their sale by 90%. Otherwise, is there not a danger that more bags for life will be purchased for single use, with the consequent increased damage to the environment?

Secondly, why have the Government exempted SMEs from using a proportion of the money raised from the sale of the bags to donate to good causes? This provision has worked well for the larger supermarkets, so I am not sure that the argument that it would be too complex to administer really holds water. Most small shops have a charity box and many are part of larger franchise arrangements. It seems wrong in principle that they should benefit from a new revenue stream for selling goods which pollute the environment. Also, will there be a requirement for the supermarkets which already administer the 5p charge to donate all the additional 5p to good causes given the additional administration in increasing the price will be negligible? Does the Minister agree with my noble friend Lord Khan, who rightly made the point that donations should be made to charities specifically involved in protecting the environment or clearing up the litter that plastic bags cause?

Thirdly, back in 2019, the resources and waste strategy set out a plan for resource efficiency and a circular economy which included an ambition for all plastics to be biodegradable. As my noble friend Lord Campbell-Savours made clear, the environmental damage caused by single-use bags would be somewhat mitigated if there was a requirement for them to be biodegradable. What steps are the Government taking to prevent plastics, including plastic bags, that are not biodegradable being in circulation?

Fourthly, why are the enforcement mechanisms restricted to being

"light touch, pragmatic and complaints led"?

This issue was raised by the Secondary Legislation Scrutiny Committee. There is some concern that trading standards and local authorities simply will not have the resources to ensure that the ban is truly effective. It would be helpful if the Minister could comment on that.

Lastly, what further plans do the Government have to make the manufacturers of single-use plastic bags more responsible for the environmental damage that they cause? Both the resource and waste strategy and the Environment Bill talk about extended producer responsibility based on the principle of "the polluter pays", so when are we going to start charging the manufacturers for producing these bags rather than putting the onus on the consumer to change their habits? That is much talked about as a policy but we are yet to see real action. Perhaps the Minister could reassure us that the comprehensive extended producer responsibility package will be introduced into the Environment Bill. I give notice now that that is an issue that we will pursue when the Bill comes before us in the Lords.

5.05 pm

Lord Goldsmith of Richmond Park (Con) [V]: I thank noble Lords who have contributed to this debate today. In order for us to leave the environment in a better state than we found it for the next generation, it is essential that we have the right legislation in place to limit the impact that our use of resources has on the natural world. Plastics are causing incontrovertible harm to our marine and terrestrial environments and we need to act now. These measures are an important part of our wider strategy to tackle plastic pollution and serve as an important marker that our reliance on single-use plastics must be reduced.

I will do my best in the time that I have to answer the questions put to me by noble Lords. The noble Lord, Lord Campbell-Savours, asked, effectively, "Why not simply ban single-use plastics?", a point echoed by the noble Lord, Lord Khan of Burnley. Like both noble Lords, I wish to see an end to plastic waste, full stop. Clearly this statutory instrument alone is not going to achieve that, but it is just one part of a much larger of package of measures. For example, in October 2020 we introduced restrictions on the supply of plastic straws, plastic stirrers and plastic cotton buds. In 2018 we banned microbeads in rinse-off personal care products, a world first at the time. We are seeking powers in the

Environment Bill to charge for single-use plastic items, introduce a deposit-return scheme for drinks containers and reform the packaging waste regulations. The Environment Bill will also provide powers to introduce extended producer responsibility measures to make producers bear the full cost of the environmental impacts of their products. We are also taking action to boost the quantity and quality of recycling—a consistent set of materials will need to be collected from all households and businesses in England—and to ensure clearer labelling on packaging so that we know what it is that we can recycle. We are ready to do much more if and where necessary.

My noble friend Lord Robathan initially expressed a concern about the principle and the idea of banning things. When it comes to individual responsibility, I would instinctively agree with him, but he would probably agree with the point that I am about to make: the use and disposal of single-use plastic imposes a heavy cost on all of us and indeed on the world that we share. This happens against our will, in most cases. It is an area that needs, merits and justifies intervention.

My noble friend stressed the importance of education and suggested that every single school should spend time litter picking. That is a suggestion that I fully agree with. I will convey his message to the Department for Education, and if need be I will involve him in those discussions. It is very hard to disagree with him. Young people are very much instinctively onside. I have never spoken at a school where I have not been asked questions about pollution, particularly plastic waste, so there is no doubt a market there waiting to be tapped.

Education and awareness are already a key element in the litter strategy for England. Around 70% of schools in England, for example, are already members of the Eco-Schools programme, which is run by Keep Britain Tidy. Schools can also participate in challenges such as the Keep Britain Tidy Great Big School Clean, the Marine Conservation Society's Great British Beach Clean and the Canal & River Trust's Plastics Challenge, joining other community-minded individuals to tackle litter all over the country.

The noble Lord, Lord Khan of Burnley, made the important point that in reducing plastic waste we are saving an enormous amount of money at many different levels. He has made the specific suggestion that the £730 million raised through this charge should be reinvested—recycled, if you like—into the waste and plastic agenda. That is a valuable suggestion and one that I will take back to the department. The only thing that I will say from a personal point of view is that I think the remit should be relatively broad, focusing broadly on the environment as a whole, given that the effects of plastic pollution are predominantly environmental.

For a second time in a week, the noble Lord has stressed the positive interactions that he has had with schoolchildren on this issue. My very first school visit to Parliament as an MP shortly after I was elected in 2010 was with a bunch of children from Barnes Primary who were accompanied by a giant papier-mâché whale, which they wanted to take to No. 10. It would not fit through the door, so we had to go to Parliament Square. This whale was made by the children as a direct response to the sad death of the whale that had been seen—I am not sure that it was swimming past Parliament, but certainly it got caught in the River Thames. When it was dissected shortly afterwards, its belly was found to be full of plastic waste and, in particular, plastic bags. That was rightly very shocking for the children, so they wanted to engage in a protest.

The noble Lord asked about gasification. I am unable to give a proper, authoritative answer, I am afraid, because I am not qualified to do so, but I shall get back to him and will ask my officials to help me to respond in detail to him. I know he will agree that the key is to stop producing products designed only to be used for seconds or perhaps minutes which then take centuries to be disposed of.

The noble Lord, Lord Moynihan, talked about the balance between deterrence and raising funds for good causes. He questioned whether raising the charge to 10p would have much of an impact. The evidence that we have suggests that it would, but he is right that alone that additional charge is not enough. I hope that I have provided reassurance in answers to other noble Lords that this is just part of an overall strategy. He suggested that we should ban further single-use items; he knows that we have banned plastic stirrers, straws and cotton buds, but I wholeheartedly agree with him that we should look for opportunities to go further.

That point was also raised by the noble Lord, Lord Mann, whose passion for this subject I very much share and enjoy. He made the point that, on the whole, people neither need nor want much of the plastic packaging or throwaway items that we are given—and he is right. Most people, when they go to a shop to buy a spring of parsley, do not particularly welcome the brick of plastic that encases it, which is why the emphasis in our approach to tackling plastic is very much to move away from consumer to producer responsibility.

The noble Lord is also absolutely right that we should be leading by example here in this place. It is appalling that we are still offered plastic cutlery and wrappers in this House; it is lazy and irresponsible, and it is completely unforgiveable. We should be leading by example, and I am certainly not going to pretend that I disagree with him on that point. On the resource and waste strategy, we committed to removing single-use plastic from the central government estate, including the Palace of Westminster, and the results of that exercise will be incorporated into the greening government commitments from 2020 onwards. As part of that, every department's progress will be published annually in the annual report. Some departments are reporting early success, but we do not yet have all the published statistics. I certainly hope to see good results and, if not, I shall certainly use my office—and I know that my colleagues in Defra will do the same—to press for real and meaningful results. Much of this waste is inexcusable.

The noble Baroness, Lady McIntosh, asked about the coming-into-force date, which we described on being the day after the day on which it is made, rather than having a specific date. We were concerned that the packed parliamentary timetable as a result of Covid-19 and EU exit could result in delays to debates

[Lord Goldsmith of Richmond Park]
and Parliament proroguing before the instrument had been debated. To avoid the instrument being withdrawn and relaid in the next session, we decided to specify the coming-into-force date as simply the day after the day when it is made. However, I stress that in August last year the government response to the consultation made it very clear that the extension and increase of the charge would enter into force in April 2021. The announcement was widely publicised in all the national press, broadcast and media, and Defra considers it reasonable to assume that businesses are aware of the Government's intention that these changes would come into force in April. Indeed, I believe that we secured a number of front-page news stories on this issue.

The noble Baroness also mentioned paper bags, describing them as not a particularly good alternative. I shall slightly distort her question here, if I may, in order to wedge in an important point. If we judge an item only on the basis of its carbon impacts, we can end up with a perverse answer. Yes, paper bags need to be reused three or four times to have the same carbon impact as single-use plastic bags. But it is wrong to look just at the carbon impact. Plastic bags take centuries to decompose. They are routinely mistaken for food, and choke hundreds of thousands of animals, particularly marine animals. They cause terrible littering and blight, and even when they break down, on the whole they become micro-plastics, which then enter the food chain and poison everything in it, including us. So simply taking a narrow carbon approach is misleading and wrong.

Finally, the noble Baroness asked what we are doing to prepare customers. Again, we believe that the change we are introducing is pretty widely known—but maybe the odd customer will turn up at a shop unaware of it. We have to be realistic about that; it is unavoidable. Some customers will go to a shop without being fully prepared. But it is unlikely that they will make the same mistake twice, or three or four times. The choice is there: bags will be there, available for purchase. But ultimately, we are talking about behaviour change. That does not normally happen overnight, and we need permanent reminders that we are, we hope, moving on a path towards minimising our impact on earth—on the planet—and reducing our environmental footprint.

The noble Baroness, Lady Parminter, asked several pertinent questions. I shall focus, if she does not mind, on the issue of franchises—the subject of her main question. She asked why we are exempting shops that are part of a franchise. All franchises, regardless of total and individual size, will be required to charge for single-use carrier bags. That we know. The noble Baroness's interpretation of reporting obligations is correct, as franchises will be judged on individual size and not on that of the franchise group as a whole. We made that decision because we recognise that such businesses usually operate independently, so do not benefit from the economies of scale available to large businesses. However, retailers with a chain of shops will be counted as a large retailer if they have more than 250 employees. We are currently exploring options to introduce reporting for producers of plastic packaging as part of their obligation under the Producer Responsibility Obligations (Packaging Waste) Regulations 2007. Any bags used by individual franchises will be reported on through that mechanism, which will, I hope, avoid unnecessary burdens.

Incidentally, the noble Baroness was right to say that many smaller retailers did not initially want or welcome the exemption included when this initiative first came in a few years ago. As someone who, as part of the coalition Government, campaigned hard for this change, I made that point many times during the debate. I too see this as a sort of catching up, or the correction of an initial flaw.

The noble Baroness asked, as did the noble Baroness, Lady Jones, whether the Government had plans to introduce reporting on bags for life. We are reviewing the reporting for single-use carrier bags, and we will consider extending the reporting requirements to bags for life as part of that.

Finally, the noble Baroness asked what further steps the Government were taking to get other problematic plastic off our shelves. In addition to the measures that she mentioned, we are delivering on promises from the resource and waste strategy through seeking powers in the Environment Bill to do a whole range of things, including: charging for single-use plastic items; introducing, as I said earlier, a deposit return scheme; reforming the packaging waste regulations; introducing greater consistency in household and business recycling collections; and more besides. We are currently assessing whether there are additional items for which a ban would be suitable and proportionate, and I would welcome ideas from her and her colleagues—and, indeed, from anyone else who has taken part in the debate—as we undergo that process.

That brings me to the contribution of the noble Baroness, Lady Jones. I thank her for prior notice of her questions, and for her and her party's support for this measure. First, she too asked what the Government were doing about bags for life. I have addressed part of her question already, but I should add that bags for life are designed for multiple reuses; that is the whole point of them. Customers should therefore be encouraged to reuse them. If they are reused sufficiently, they have a lighter environmental impact than single-use bags. Clearly, if they are used only once, they do not. There will be an increase in the number of bags for life—we know that—but the policy change will lead to an overall reduction of at least 24% in the number of bags across all types. However, I agree with the noble Baroness that bags for life are not a proper long-term solution. They are not. The more progressive and thoughtful supermarkets are already planning their switch away from all plastic bags; a number of noble Lords have mentioned Morrisons.

The noble Baroness asked whether we will hike the price of bags for life, as did a number of noble Lords. We are considering that as part of the post-implementation review. The noble Baroness and the noble Lord, Lord Khan, suggested that money should be recycled back into plastic and waste-related causes. Again, I will convey that message, but I would prefer money to be recycled into a wider remit, something environmental and local as far as possible.

Secondly, the noble Baroness asked how the UK will encourage manufacturers to take responsibility for plastic bags. We are committed to introducing a

new, world-leading tax which will apply to businesses producing or importing plastic packaging which does not meet a minimum threshold of at least 30% recycled content from April 2022. Combined with our reform to the packing producer responsibility system which will apply to all packing, including single-use plastic bags, it will change economic incentives by encouraging more use of recycled plastic and drive up recycling rates. We are doing what we need to do to shift the emphasis away from consumers to producer responsibility.

Finally, the noble Baroness asked why all plastic bags—

The Deputy Chairman of Committees (Baroness Henig) (Lab): I am sorry; we are running out of time.

Lord Goldsmith of Richmond Park (Con): I apologise. I think I have answered the questions that were put to me and any more is merely an indulgence, so I will simply say that we are taking steps to reduce our reliance on single-use plastics and to explore more sustainable alternatives. This draft order will help us to do so, and I commend it to the Committee.

Motion agreed.

The Deputy Chairman of Committees (Baroness Henig) (Lab): That completes the business before the Grand Committee this afternoon. I remind Members to sanitise their desks and chairs before leaving the Room.

Committee adjourned at 5.21 pm.