Vol. 812
No. 12

Monday
7 June 2021

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at
https://hansard.parliament.uk/lords/2021-06-07

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

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

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind 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 7 June 2021

The House met in a hybrid proceeding.

1 pm

Prayers—read by the Lord Bishop of Carlisle.

Arrangement of Business

Announcement

1.08 pm

The Lord Speaker (Lord McFall of Alcluith): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, others are participating remotely, but all Members will be treated equally. I ask all Members to respect social distancing and wear face coverings while in the Chamber except when speaking. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

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

Health Partnership Schemes: Funding

Question

1.09 pm

Asked by ***Lord Crisp***

To ask Her Majesty's Government why they have reduced funding to health partnership schemes used by United Kingdom clinicians to support doctors and nurses abroad with training in (1) infection control, (2) pandemic management, and (3) the care of COVID-19 patients.

Lord Crisp (CB) [V]: My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare my interest as patron of THET, the Tropical Health and Education Trust.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, UK health professionals have made a substantial contribution to achieving global health goals in developing countries by giving their time voluntarily through health partnership schemes. However, the UK is facing its worst economic contraction in over 300 years and a budget deficit of close to £400 billion. Given the impact of the global pandemic on the economy, the Government have been forced to take tough but necessary decisions, including to close our UK Partnerships for Health Systems programme.

Lord Crisp (CB) [V]: I thank the noble Lord for that Answer. As he says, hundreds and maybe thousands of health professionals every year, voluntarily and in their own time, support their colleagues in low and middle-income countries with Covid and in all other kinds of areas. It is good for those countries and good for the NHS, because it provides training and development as well as learning; we learned so much during the Ebola epidemic. For the last 10 years Her Majesty's Government have supported these schemes in some areas such as transport, and so on. They have been very positive but, as the noble Lord says, they have been cut completely. So I have two specific questions. In February, Her Majesty's Government agreed or committed themselves to continue to support the partnership scheme in Myanmar, which is dealing with Covid but also the dreadful emergency. Will the Government honour that commitment? Secondly, how will the Government continue to support UK volunteers, who give and gain so much and who are great ambassadors for the UK, given the withdrawal of this scheme?

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Lord's second point, I agree that our medical professionals play an incredible role around the world. Certainly, I am keen to explore with the noble Lord and key Ministers, including my colleague Minister Morton, to see how through the contributions we make to health through institutions such as the World Health Organization we can continue to leverage that expertise. On Myanmar specifically, of course with the coup the situation has been extremely difficult. The noble Lord is correct in saying that we are cancelling future activity on this particular programme, but we will fund a round of grants to support voluntary health partnerships working in Myanmar.

Baroness Sugg (Con): Does the Minister recognise the importance of assisting low-income countries to prevent the spread of Covid and to treat the disease? Given the closure of this programme, how will the FCDO ensure that countries can learn from our clinical experience?

Lord Ahmad of Wimbledon (Con): My Lords, first, I agree with my noble friend and I assure her that the FCDO and the Government are committed to supporting low-income countries to tackle Covid-19, both to reduce the impact of Covid-19 and because of course we all recognise the importance of vaccines globally. This includes supporting countries to learn from each other as well. I assure my noble friend that we are looking quite specifically at country-by-country programmes, and health support is an essential handrail within our ODA support that we will continue to prioritise.

Baroness Cox (CB) [V]: My Lords, is the Minister aware that Her Majesty's Government provide no medical aid to the middle-belt regions of Nigeria, where thousands have been killed and tens of thousands displaced, and where the people are in dire need of help? Will the proposed reduction in funding destroy any hope of potential funding for life-saving aid where there is such desperate need?

Lord Ahmad of Wimbledon (Con): My Lords, as I already indicated, we have had to make extremely challenging and difficult decisions. However, we will be working through multilateral agencies, particularly through enhanced funding of the World Health Organization and our support through Gavi and CEPI and other key programmes, to ensure that the most vulnerable get access to health provision as well as to the vaccine.

Baroness Warwick of Undercliffe (Lab) [V]: My Lords, the Minister has said that he recognises the important role UK clinicians can play in supporting health systems in low-income countries. Does he also recognise how much UK clinicians learn from their experience of working in partnership with others and the benefits this brings to the NHS? They are also excellent ambassadors for global Britain.

Lord Ahmad of Wimbledon (Con): My Lords, I concur with the noble Baroness's view; indeed, I have friends and family who have shared such experiences with me. We will continue to work with the profession to see how best, in difficult situations, we can leverage expertise both ways.

Lord Purvis of Tweed (LD): My Lords, can I remind the Minister again that he committed to meet the noble Baroness, Lady Sugg, myself and the Peers for Development group? This week and next, the UK is hosting the richest countries in the world at a time of perhaps unprecedented health challenges for the least-developed countries in the world in our lifetime. The last two times that the UK hosted the richest countries, we had on the official record the UK calling on the other G7 members to meet the 0.7% commitment on assistance. Can the Minister be explicit and on the record: is the UK calling on the other G7 countries to meet that 0.7% this time?

Lord Ahmad of Wimbledon (Con): My Lords, first, reminders from the noble Lord are always welcome, but a meeting is very much on the schedule and we will make that happen at the earliest opportunity. On his second point, I can put on record our Prime Minister's and the Government's commitment to ensuring a global health response to the current pandemic that we are facing. That is why we have led on the important issue of the COVAX Facility, which we will continue to emphasise with our G7 partners.

Lord Collins of Highbury (Lab): My Lords, as I said last week, it is the speed and scale of the cuts that are having such a damaging effect. The noble Lord, Lord Crisp, made the point that the cuts impact the most vulnerable countries with fragile health systems: Myanmar, Uganda, Zambia, Ethiopia, Somalia, and, of course, Ghana and Sierra Leone—places where we know the impact of failing health systems on global health. This is also linked to cuts to nutrition projects, which help maintain the efficacy of vaccines—cut by 80%. Will the noble Lord commit to a proper impact assessment of these cuts on the global vaccine programme?

Lord Ahmad of Wimbledon (Con): My Lords, as I have already said, the Government remain very much committed to the prioritisation of the health response, particularly when it comes to the Covid-19 pandemic. The noble Lord is right to recognise the important role our health programmes play across Africa, but these are challenging circumstances and difficult calls have been made. We are working through the country programmes to see how we can best prioritise health programmes in different countries, particularly those across Africa.

Lord Flight (Con): My Lords, why are the Government proposing to reduce funding for the Health Partnership Scheme, which has been one of the big successes of DfID's increased overseas aid expenditure programme? The HPS has trained over 93,000 health workers across 30 countries, especially in Africa and Asia, 191 partnerships have been formed and 210 projects delivered. If some reduction in planned overseas aid expenditure is necessary, I am sure there are other, less valuable and less affected areas than the HPS.

Lord Ahmad of Wimbledon (Con): My Lords, I hear what my noble friend says. But, as I have already indicated, these have been extremely difficult budget rounds. However, I can assure him that we are working with multilateral organisations; indeed, some of the additional funding we are providing through the World Health Organization will focus on global health priorities, including universal health coverage, providing support to professional midwifery, and sexual and reproductive health.

The Earl of Sandwich (CB) [V]: My Lords, I know that the Minister keeps a close eye on Nepal. Are the FCDO and NHS also supporting and encouraging any volunteer health workers in the UK who want to go out to train Nepalese health workers, especially in rural areas where, as we have heard, services are most fragile? The need is quite desperate in places.

Lord Ahmad of Wimbledon (Con): My Lords, as the Minister responsible for south Asia, I assure the noble Earl that I have prioritised support to Nepal, particularly on its requirements and prioritisations. We are working very closely with the Nepalese Government in identifying needs. Because of the situation on the ground, it is important to identify the safety of health workers who may be deployed, but we have teams on the ground who are providing first-hand information.

Lord McConnell of Glenscorrodale (Lab): My Lords, the G7 summit taking place in Cornwall this weekend must be the first summit of global leaders in history where the host country is reducing its international commitments at the same time as every other country attending is increasing its international commitments. This is bringing shame and ridicule on our country. It is not too late for the Prime Minister to change tack and say that additional resources for climate, education, global health and the global economic recovery could be delivered with a return to 0.7% of GNI spent on international development. Will the Government change tack this week at the last minute and make this summit a success?

Lord Ahmad of Wimbledon (Con): My Lords, I believe that the summit will be a success, because a lot of work has been put into the planning for that. On the specific commitment, the noble Lord will be aware that I cannot make the kind of commitment that he is seeking. However, I will say to him, through my own engagement both in-country and with multilateral organisations, that the United Kingdom, through the over £10 billion we will be spending this year, is still regarded as among the premier countries when it comes to development support.

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

Net-Zero Carbon Emissions

Question

1.19 pm

Asked by ***Baroness Boycott***

To ask Her Majesty's Government whether they plan to publish a strategy for public engagement and behaviour change to support their target for net zero carbon emissions by 2050; and if so, when.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, leading up to COP 26, we will publish a comprehensive net-zero strategy setting out the Government's vision for transitioning to a net-zero economy, making the most of new growth and employment opportunities across the United Kingdom. Through the net-zero strategy we will communicate our approach to public engagement and support the public to make green choices. Achieving our net-zero target will be a shared endeavour requiring action from everyone in society.

Baroness Boycott (CB): I thank the Minister for his Answer. For public-led behaviour change to happen, there will need to be perceived and real fairness. Those are not my words, but those of Dr Christina Demski, who has been advising the Government on this issue. Currently, that fairness is lacking. The Cambridge Sustainability Commission report shows clearly that it is the global elite who have been responsible for most of our emissions since 1990. What are the Government doing to tackle this inequality, both real and perceived? The BEIS public attitudes survey shows that there is a great deal of concern about climate change but quite an area of misunderstanding of what net zero means. Will the Minister encourage the Government to write to every household in the UK explaining what it means and what they can do to play their part in it, so that when we get to COP 26, we will all feel involved?

Lord Callanan (Con): The noble Baroness is right that we need to involve all members of society in this. We have done a lot in this space. Since 2019, we are funding or running 13 deliberative dialogues on a range of net-zero issues such as net-zero homes, heating and transport, decarbonisation, and so on. A lot is going on in this space.

Baroness Whitaker (Lab): My Lords, will the Government let us know how they propose to get many more members of the public to commit to or be remitted the considerable expense of exchanging their gas boilers for ones with zero carbon emissions? What will be the carrot and what will be the stick?

Lord Callanan (Con): The noble Baroness is right that this will indeed be a challenge. If she will be patient, we are planning to publish our heat and buildings strategy in due course. That will set out how our industry and consumers can take the immediate actions they need to take in order to reduce emissions from all buildings, both industrial and commercial.

Baroness Fox of Buckley (Non-Afl): My Lords, according to a summary report from the Public Accounts Committee, as much as 62% of the reduction in future carbon emissions will rely on individual choices and behaviours such as replacing boilers or buying electric vehicles. Have the Government told the public that they are relying on such behaviour change and what it will mean ultimately for individuals if they have no choice but to comply? When will the Minister tell the public how much net zero will cost them? As we have just heard, gas boilers cost a great deal less than the heat pumps being proposed, which produce a lot less heat. For an ordinary home to achieve net zero will cost approximately £90,000. Whether they are carrots or sticks, they are very expensive regardless.

Lord Callanan (Con): I do not recognise the figures given by the noble Baroness. It will be an expensive change, but I do not think that it will cost that much per home. However, she is right in theory. We need to educate people about the changes required and to take them with us, and of course the policy will be brought about by a mix of regulations and grant assistance.

Baroness Rawlings (Con) [V]: My Lords, given the Government's admirable net-zero target for carbon emissions by 2050, will that include all transport becoming electric? We will have silent motorcars and buses, but will there also be legislation to make motorcycles electric?

Lord Callanan (Con): These are matters to be decided in the future, but we will not be able to power all transport by electric means. Certainly, some will be, but heavy articulated lorries, trains and so on mean that we will have to look at other solutions such as hydrogen.

Lord Oates (LD): Do the Government recognise the key role that local authorities need to play in public engagement strategies to support net zero? Can the Minister tell the House what discussions his department has had with the Local Government Association on how best to integrate the work of central and local government in this respect?

Lord Callanan (Con): The noble Lord is quite right that we need to involve local authorities and we are doing that. Indeed, local authorities are one of our key partners in many of our strategies, such as the local authority green homes grant. I am the Minister responsible for this. We are working closely with local authorities and so far they are doing an excellent job in helping us deliver it.

Lord Howell of Guildford (Con) [V]: My Lords, I declare my interests as set out in the register. Can my noble friend explain how our planned net-zero goal actually contributes directly to checking the prospective growth in global carbon emissions and atmospheric concentrations? As these continue to rise worldwide, as they are likely to do, are any changes in priorities or

[Lord Howell of Guildford]
in the direction of British resources to combat climate change being considered so as to make a real impact on the major emissions sources, especially the Asian utilities, where most of the increase is going to come from?

Lord Callanan (Con): My noble friend has made a good point. The UK was one of the first major economies to legislate for net-zero emissions by 2050, and of course our ambitious domestic action gives the UK the credibility to influence and to accelerate global action. If the noble Lord looks at some of the commitments that have been made by major economies before COP 26, he will see that considerable action is being taken.

Baroness Hayman (CB) [V]: My Lords, I return to the issue of decarbonising homes. Does the Minister accept that public confidence and engagement have been damaged by the failure of several schemes, culminating in the green homes grant? Will the much-delayed heating and buildings strategy provide a clear and comprehensive framework for the changes that are necessary, including costings, so that industry and individuals alike can plan?

Lord Callanan (Con): The noble Baroness will have to be patient to see the detail of the heating and buildings strategy, but it will provide a clear and comprehensive road map for the challenging work that we all understand will need to take place on decarbonising the heat that goes into both commercial and domestic buildings.

Lord Grantchester (Lab): The Government are right to insist that companies bidding for government contracts should publish their plans on how their own companies will achieve net zero. However, for the Government, it is necessary that they publish detailed delivery plans to accompany legislative targets in a timely fashion. The current policy is insufficient even for the existing targets. While we await the net-zero strategies, how are the Government working together with the devolved Administrations, mayors and local authorities to secure buy-in? Does the Minister agree that it is unsafe to rely on as yet undeveloped technologies to come along just in time?

Lord Callanan (Con): As I mentioned in my answer to the noble Lord, Lord Oates, we are working closely with local authorities and the devolved Administrations because this will be a shared effort. There are often challenging targets that we need to meet, but we are working with all our partners across the country and engaging with the public as well so as to take them along with us on this journey.

Baroness Randerson (LD): My Lords, total CO_2 emissions from the national vehicle fleet have hardly reduced in recent decades, despite emissions from individual cars being much lower in many cases and despite the increase in popularity of electric vehicles. The main problem is the increasing number of highly polluting SUVs on our roads. Does the Minister agree that the Government need to restructure taxation levels so that people are discouraged from buying more heavily polluting vehicles?

Lord Callanan (Con): The noble Baroness will be aware that I cannot give any commitments on taxation because that is a matter for the Chancellor. However, there are some excellent examples of electric and hybrid SUVs; people can continue to use these vehicles while still contributing to the cause of reducing their emissions.

Baroness Prashar (CB) [V]: Does the Minister agree that the engagement of the not-for-profit sector in developing public strategies is absolutely crucial? Does he also agree that this is an excellent opportunity to ensure that we strengthen our democracy by involving young people through non-governmental organisations?

Lord Callanan (Con): We are closely engaging with young people. The Youth Climate Action Team is closely working with many young people's groups on this agenda.

The Earl of Caithness (Con): My Lords, does my noble friend agree that what he is going to publish before COP is merely the start of a long, ongoing process that will happen every year, for many years to come? Could he tell the House what he is doing, particularly with schools, as an education programme? Unless we are all educated, we will not achieve anything near the target that we all hope for.

Lord Callanan (Con): Indeed, my noble friend is right that COP is an important milestone, but that this work—this strategy and policy—will go on for many years until we achieve our net-zero target in 2050. The young people in schools and taking part in youth groups now will be consumers in the years ahead, so it is important that they are educated and informed of the changes that they will need to make.

The Lord Speaker (Lord McFall of Alcluith): My Lords, all supplementary questions have been asked, so we now move to the next Question.

Secondary Schools: Arts Subjects

Question

1.30 pm

Asked by ***The Earl of Clancarty***

To ask Her Majesty's Government what support they intend to provide for education in arts subjects in secondary schools.

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con): My Lords, the Government are committed to high-quality education for all pupils, including in the arts. Schools are required to teach a broad and balanced curriculum, which includes promoting pupils' cultural development. We have spent over £620 million between 2016 and 2021 on a range of cultural education programmes, which we continue to fund this year. This includes the *Model Music Curriculum*, which supports teachers to deliver high-quality music education.

The Earl of Clancarty (CB): My Lords, can the Minister confirm that the £90 million arts pupil premium, promised last year and due to start this September, will go directly to schools? Secondly, does the Minister agree that proposed cuts to HE funding of arts subjects, based on perceived strategic priorities, are misguided? The innovation this Government wish to encourage will not come from STEM subjects alone, but as much from the creative subjects, and that starts in schools.

Baroness Berridge (Con): My Lords, the Government have had to make some difficult fiscal decisions on the arts premium. As noble Lords are aware, we have no money for free schools this year. That, along with the arts premium, will be in the spending review in the autumn. The Office for Students has just consulted on the request to reprioritise the strategic priorities grant and, as the noble Earl is aware, an extra £10 million will be made available for specialist providers, which includes drama and arts institutions.

Baroness Bakewell (Lab) [V]: My Lords, research shows that creative activity, at all levels of education, promotes original thinking across the sciences. Will the Minister take this research on board to press for further positive support for the arts, in this important link?

Baroness Berridge (Con): My Lords, the Government have made clear in all the guidance that we have issued to schools that they should be delivering that balanced curriculum, which includes the arts and cultural activities. We recognise not just the innovative thinking that comes from cultural activities, but the pupil well-being that is often related.

Lord Addington (LD): My Lords, to follow the noble Baroness, arts and creative activity are seen to be a direct enhancer of other subjects. Where is this taken into account when setting targets? If you are to get the best out of this, you will have to make sure that people actively get involved and have opportunities at school. If you do not, you will cut down grades.

Baroness Berridge (Con): My Lords, in relation to input, DCMS recently did a taking-part survey and well over 90% of students have taken part in some kind of cultural activity, ranging from carnivals to music. It is a specific criterion of many programmes, such as the National Youth Dance Company and the national youth music orchestras, to include children with special education needs.

Lord Lingfield (Con): My Lords, is my noble friend aware that, whereas 85% of independent schools have a school orchestra, only 12% of state schools do? Will the Government ensure that the £76 million provided annually to so-called music hubs is spent more effectively to allow more young people to play classical music together? I declare an interest as chairman of the English Schools' Orchestra.

Baroness Berridge (Con): My Lords, as the noble Lord just heard me outline, we fund through many of these projects, such as the national youth music orchestras. The forthcoming national music plan, with its one-year extension to the music hubs, will take the matters that the noble Lord outlined into account.

Lord Aberdare (CB): My Lords, many secondary schools can provide performing arts education only with the support of specialist external arts teaching practitioners, particularly for dance and drama. Many of these are linked to awarding organisations, validated by the Council for Dance, Drama and Musical Theatre, which offer Ofqual-regulated graded examinations. What plans do the Government have to promote the use of such specialist performing arts teaching by schools, thereby broadening their access to these highly regarded qualifications? How will the education recovery plan ensure that all schools can offer the balanced curriculum that the Government require?

Baroness Berridge (Con): My Lords, it is correct, as the noble Lord outlines, to say that schools need those specialist teachers. Recruitment of trainee teachers is up by 23% and we have no information about a gap in the recruitment of those teachers. Schools are free to use the £650 million universal catch-up and recovery premium as they see fit. If they wish to spend it on the type of provision that the noble Lord outlines, we hope that they will do so.

Lord Watson of Invergowrie (Lab): My Lords, as well as lost learning, Covid-19 has had a major effect on the mental health of children. Arts subjects and activities have the potential to reduce stress and anxiety, and are proven to encourage language development in children, particularly the most disadvantaged. Recently, Sir Kevan Collins—I wonder what became of him—said that

"we need to think about the extra hours not only for learning, but for children to be together, to play, to engage in competitive sport, for music, for drama because these are critical areas which have been missed in their development."

Does the Minister agree and can she explain why the National Tutoring Programme does not apply to creative and practical subjects?

Baroness Berridge (Con): My Lords, schools offer a number of co-curricular or extracurricular activities. As the Minister responsible for out-of-school settings, I know that much of that activity takes place in those areas. Indeed, the National Tutoring Programme does not deliver as the noble Lord outlined, at the moment. However, a proportion of the tutoring money from the latest and third tranche of recovery money will go directly to schools. As well as being able to spend the universal catch-up and recovery premiums in the manner that schools choose, the school-led aspect of the National Tutoring Programme will enable them to have small-group or one-on-one tutoring in the subjects that the noble Lord mentioned.

Baroness Benjamin (LD): My Lords, the creative industries are facing a challenge in finding young talent to maintain their high profits, which provide over £100 billion to the Treasury. Apart from that, six out of the 10 top skills that secondary students will need for any industry in 2025 are well fostered through the arts subjects and will ensure that they are career-ready

[Baroness Benjamin]
in our competitive world. I ask the Minister how the Government are planning to support students today to reach their potential in the world of work in years to come, if creative subjects are not being taught at sufficiently high numbers in schools. I declare an interest as per the register.

Baroness Berridge (Con): My Lords, since the introduction of the EBacc, the take-up of GCSEs in the arts has remained broadly stable. As I believe the noble Baroness is aware, we also developed a pilot project, funded by DCMS, for apprenticeships, which are important in this sector. We are developing this with ScreenSkills as a partner, because people do not tend to have one employer in this sector and move from project to project. We had to pause because of Covid, but we hope to extend the pilot and look again to make sure that there are apprenticeships in this area for young people to take advantage of.

Baroness Bennett of Manor Castle (GP): My Lords, the Minister referred to the well-being benefits of the arts. She is probably aware of the "HEarts survey" published in the *PLOS ONE* journal in March, which showed that arts involvement is

"associated with higher levels of well-being and social connectedness"

and lower levels of loneliness. Surely, education in secondary schools is essential to set that up. Given the Government's avowed attention to build back better, should the £90 million arts pupil premium referred to by the noble Earl not be certain and guaranteed, rather than up in the air? Schools are planning staffing now and staff are planning their future careers—they need to know what is happening.

Baroness Berridge (Con): My Lords, all I can say to the noble Baroness is that, unfortunately, we have had to make some difficult decisions in relation to current priorities. An arts premium will be considered in the spending review but, as I have outlined, about £84 million this year has gone into the music hub and various programmes to ensure that provision. I wish we had the ideal world that the noble Baroness outlines.

Lord Lexden (Con): My Lords, I declare my interest as president of the Independent Schools Association, which is made up of over 550 smaller independent schools serving their local communities up and down the country. Following on from my noble friend Lord Lingfield's question, have the Government noted that, before the pandemic, state and independent schools were working together in over 1,200 partnership schemes involving either music or drama? With so many pupils having missed out over the last year, is this not the moment for the Government to encourage more state schools to work with their local independent colleagues so that the education system as a whole achieves the maximum benefit of collaboration between the two sectors?

Baroness Berridge (Con): My Lords, my noble friend is correct: there are many successful partnerships and I have the pleasure of regularly meeting the Independent Schools Council and other sector bodies, as he outlines. In the next couple of weeks I am holding a round table for precisely that purpose: to see how the existing partnerships could be strengthened and whether we could see an expansion of that activity.

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

Iran: British-Iranian Prisoners

Question

1.41 pm

Asked by ***Lord Dubs***

To ask Her Majesty's Government how many British Iranian dual nationals are being held in Iran; and what action they are taking to get any such prisoners released.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, it is unacceptable and unjustifiable that Iran continues with its arbitrary detention of dual British nationals. The Prime Minister has raised the cases of arbitrarily detained dual British nationals with President Rouhani and the Foreign Secretary has raised them with Foreign Minister Zarif. We continue to seek their release and return to the UK. We do not detail the number of British nationals detained when the low numbers involved may lead to individuals being identifiable.

Lord Dubs (Lab) [V]: The Minister will be aware that Gabriella, daughter of Nazanin Zaghari-Ratcliffe, has her seventh birthday this week—the sixth without her mother. I assume that the UK Government still regard Nazanin as a hostage, and that the UK will support the Canadian declaration against arbitrary detention at the G7 meeting this week. What has happened to the promise that the UK will pay the money owed to Iran? Is Nazanin still under diplomatic protection, and will the British embassy in Tehran try to attend her trial as well as that of other dual nationals?

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Lord's last point, in one or two cases we have received information for added diplomatic protection and we are looking at that issue. The noble Lord is right about the situation the Ratcliffe family continues to face and we are making that case consistently. There are, at least, some small glimmers: Nazanin remains out of detention and her ankle tag has been removed. On the long-standing debt, we continue to explore options to resolve this case, but I do not want to go into details here, and nor do we attach the two issues specifically.

Lord Austin of Dudley (Non-Afl): My Lords, this brutal regime and the Islamic Revolutionary Guard Corps kidnaps and imprisons British citizens, has an appalling record on human rights and exports terror and extremism across the Middle East, including providing thousands of rockets for Hamas to rain down on Israeli citizens. Will the Government use this week's G7 to make the case for much tougher sanctions against the regime's leadership? Will the UK proscribe the IRGC, as the US did in 2020 and which the Biden Administration have maintained?

Lord Ahmad of Wimbledon (Con): My Lords, I can assure the noble Lord that we will continue to work very constructively with our key partners to ensure that the obligations Iran has under the JCPOA are fully met and upheld. On future sanctions, the noble Lord will of course be aware that I will not speculate on what we may or may not do in the future.

Lord Udny-Lister (Con): My Lords, the plight of Nazanin Zaghari-Ratcliffe and others held by the Iranian authorities is truly terrible. We can only imagine how ghastly it must be serving time in one of their prisons or under house arrest; as has already been said, it is a very repressive regime. Can the Minister therefore confirm that, as the negotiations proceed in Geneva on the JCPOA, they will deal with the nuclear issue and also the export of terrorism and the seizing of hostages—both of which were omitted under the original JCPOA arrangements?

Lord Ahmad of Wimbledon (Con): My noble friend is right to highlight the limitations of the JCPOA—specifically on arms, for example, ballistic missiles are not included. As I said earlier, we continue to work with partners in asking Iran to uphold its obligations. I assure my noble friend that we are working at the highest level, including through the Prime Minister and the Foreign Secretary, to ensure the early release of all dual nationals under detention and their return to the UK.

Baroness Coussins (CB): My Lords, many of the World Service Persian staff are dual nationals who live in the UK but cannot visit elderly parents or attend family funerals in Iran for fear of arrest and imprisonment. The aim of this intimidation appears to be to coerce them to leave the BBC, and family members in Iran are often targeted too. What practical steps, in addition to the support I know the noble Lord has expressed before, are the Government able to take to step up the efforts to end this harassment?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Baroness is right to raise the issue of journalists. As she will be aware, media freedom remains a key priority for Her Majesty's Government. We are working with key partners, most notably Canada, on this important issue and on the arbitrary detention of journalists in Iran.

Lord Hain (Lab) [V]: My Lords, last month the Foreign Secretary stated that the treatment of Nazanin Zaghari-Ratcliffe "amounts to torture". Previously, Amnesty International has suggested that another dual national, Anoosheh Ashoori, has been subjected to similar treatment. Will the Minister confirm what recent steps the Foreign Office has taken to protect imprisoned dual nationals in Iran from such torture?

Lord Ahmad of Wimbledon (Con): My Lords, I assure the noble Lord that, as I have already said, we are taking direct steps through bilateral engagement with the Iranian Government, and that, as we receive specific requests from the families of those who are detained, we seek to process those in the most efficient and effective manner possible.

Baroness Northover (LD) [V]: My Lords, following on from the question of the noble Lord, Lord Dubs, at the G7 meeting will the Prime Minister raise with President Biden the necessity of getting Nazanin Zaghari-Ratcliffe and the other British and American hostages home from Iran? The noble Lord also mentioned attending court cases, which, of course, other European countries do, as the Minister will know. Will our embassy officials attend the revolutionary court next week for the case of the most recent British detainee?

Lord Ahmad of Wimbledon (Con): My Lords, on the latter point, we continue making the case to attend any hearings that we can. Of course, those are subject to the approval of the Iranian authorities. On the first point, we raise all opportunities, working with our key partners, including the US, on the early release of all hostages held in Iran.

Lord Collins of Highbury (Lab): My Lords, six weeks ago, James Cleverly said that we were co-operating with international partners, including the US and the E3, on a whole range of issues regarding Iran. He referred to the renewed mandate of the UN special rapporteur, the March Human Rights Council and joining the Canadian initiative against arbitrary detention, which the Minister mentioned. What further action, in concert with our allies, has the United Kingdom taken over the past six weeks to ensure the return of Nazanin and the release of the other British detainees?

Lord Ahmad of Wimbledon (Con): My Lords, we are working on specific measures on a raft of issues with our allies, as my right honourable friend Minister Cleverly indicated, including, without my going into the details of each case, engagement directly with the Iranians on the early release of all those currently held in Iran, as I have said already.

Lord Alton of Liverpool (CB): My Lords, can the Minister study this morning's statement by openDemocracy, which includes an appeal by a survivor of the 1988 mass executions of Iran's political prisoners, and support his call for an international commission of inquiry, requested in a letter in May to Michelle Bachelet by more than 150 UN officials, lawyers and human rights activists? Also, given the alleged role of Ebrahim Raisi in those events and in subsequent executions and impunity, and given his statement that amputation of arms and limbs is a "divine punishment" and that divine punishments are

"a source of pride for us",

how do the Government view the prospect of his election as Iran's next President?

Lord Ahmad of Wimbledon (Con): My Lords, I have not seen the statement, so I will write to the noble Lord on the specifics of his question. I assure him that we continue to make the case through multilateral engagement as well as directly with Iran about the well-being and, ultimately, the early release of all hostages.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, having watched this cruel saga play out over the years, it becomes obvious that the Revolutionary Guard are playing mind games with a British citizen who is

[Lord Mackenzie of Framwellgate]
being used as a political pawn. This matter must be divorced from any procedural or historical debt that may or may not have been incurred by different Governments. If the UK accepts the debt liability in principle, surely the matter can now be settled amicably without either side losing face, and the torture of a mother and her family can be brought to an end.

Lord Ahmad of Wimbledon: My Lords, as I have already said, on the issue of the debt, we continue to explore options to resolve this case at the earliest opportunity, but that is all that I can say at this point.

Lord Wallace of Saltaire (LD): My Lords, do the Government have a coherent policy towards dual nationals? Do we know how many dual nationals there are with a British nationality, and which other countries it is most commonly shared with? Do the Government have a clear policy towards the right of protection that we offer when they are back in their other countries of nationality? Do we intend allowing them to vote both in Britain and in their other country of nationality, regardless of where they are resident—for example, under the forthcoming EI Bill? Will the Government issue a White Paper on this?

Lord Ahmad of Wimbledon (Con): My Lords, I think that I followed the train of the noble Lord's question. He will be aware that Iran does not recognise dual nationalities. We are aware of all dual nationals, including those who hold more than two nationalities. As I said earlier, we do not go into the numbers, to protect those who are being held.

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

1.52 pm

Sitting suspended.

Arrangement of Business

Announcement

2 pm

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

Education Recovery

Private Notice Question

2.01 pm

Asked by ***Lord Watson of Invergowrie***

To ask Her Majesty's Government, following the resignation of Sir Kevan Collins as Education Recovery Commissioner, what steps they will take to develop a long-term plan to help pupils make up for lost learning during the Covid-19 pandemic.

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con): My Lords, the Government are committed to ensuring that children and young people catch up after the disruption of the pandemic. As the next step in these efforts, we have announced an additional £1.4 billion of funding for high-quality tutoring and great teaching. This brings our total recovery package to more than £3 billion. We will consider the next steps ahead of the spending review, and catch-up is for the lifetime of this Parliament.

Lord Watson of Invergowrie (Lab): My Lords, I cannot really believe that the Minister is comfortable defending the indefensible following the chaotic events surrounding what can only be described as the Government's bargain basement recovery plan for school pupils. The promise of jam tomorrow is highly unlikely to satisfy many appetites. When Sir Kevan Collins presented his plan, costed at £15 billion, to the Prime Minister, the Prime Minister reacted by moving the decimal point one place to the left. Perhaps he thought that Sir Kevan would not notice, but Sir Kevan is nobody's fool. He is widely respected throughout education and across the political spectrum, and now he is lost to the vital task of education recovery. As the Minister said, planned spending on school recovery is now around £300 per pupil, but that compares with £1,600 per pupil in the United States and £2,500 in the Netherlands. Can the Minister explain why her Government believe that children in England need so much less support than their American and Dutch contemporaries?

Baroness Berridge (Con): My Lords, the Government wish to thank Sir Kevan for his work. He supports the tutoring and teaching proposals we have outlined. In relation to the methodology, it is not accurate to make a comparison between different jurisdictions. For instance, the £3 billion I have outlined does not include the £400 million that has been spent on remote learning, including on 1.3 million devices, the Covid costs recovery fund, the workforce fund et cetera, so we are not comparing like with like when comparing different jurisdictions.

Baroness Garden of Frognal (LD): My Lords, we know that this Government have a self-confessed distrust of experts and prefer to shamble from crisis to crisis, yet they appointed the expert Sir Kevan to this vital role and the Prime Minister appeared to be supportive. The money that Sir Kevan's well-researched report identified to help all children—particularly disadvantaged children—to make up the devastating educational losses of Covid was decimated. Why did the Government appoint Sir Kevan if they had no intention of listening to his authoritative findings?

Baroness Berridge (Con): My Lords, as I said, the tutoring and support for teaching that I outlined were part of Sir Kevan's plan. More than £1 billion is going into tutoring for young people. That should pay for 100 million hours for children and young people across England by 2024. Those are disadvantaged young people. Using a "per pupil" analysis is not accurate when certain pots of money have been targeted at, for instance, tutoring disadvantaged children and summer schools are available to secondary schools only.

Lord Loomba (CB) [V]: My Lords, in many families, the main breadwinner has died as a result of Covid-19, leaving their spouse a widow or widower suffering not

only the grief of bereavement and poor mental health but facing immense financial pressure at a very uncertain time. What special steps will the Government take to assist and support the children of such new widows or widowers in catching up on learning lost during the pandemic?

Baroness Berridge (Con): My Lords, the noble Lord raises an important and tragic consequence of the pandemic. I visited a school about two weeks ago where 70% of the students were close bereaved. In this regard, the task of schools is immense. The money that I have outlined—the universal catch-up money, the £650 million which is in schools' banks now—can be spent on additional pastoral support. We announced during Mental Health Awareness Week that we have invested £17 million to train up mental health support leads in more than 7,800 schools. I note that bereavement is not a mental health need, but it may be that that workforce also does bereavement support.

Lord Lansley (Con): I refer to my interests as recorded in the register. My noble friend will be aware that many disadvantaged pupils lose ground over the summer in terms of both their physical fitness and their academic ability compared to their better-off counterparts. Even at this late stage, can the Government take action for this summer to roll out nationally much more strongly pioneering work—like the work promoted by Mayor Andy Street in the West Midland—to bring the facilities of schools in the summer to the benefit of disadvantaged pupils for physical activity, meals and catch-up academic work?

Baroness Berridge (Con): My Lords, my noble friend is correct. We have now had three reports from the government-sponsored research by Renaissance Learning and EPI in relation to disadvantaged children falling behind. In addition to the summer schools that I have outlined, it seems that the majority of secondary schools have bid to do summer school for their incoming year 7. The holiday activities fund has now been rolled out across all local authorities so that children can get the balance of nutrition, activity and some education.

Lord Tomlinson (Lab): Does the Minister accept that Sir Kevan Collins made a fundamental error of judgment when he accepted the appointment as commissioner for education recovery? His fundamental error of judgment was that he believed that the Prime Minister's definition of priority for education recovery was in the same ballpark as his own, and in that he found he was sadly mistaken.

Baroness Berridge (Con): My Lords, I can only repeat our thanks for the work that Sir Kevan Collins has done. Much of what the noble Lord outlines is a question for Sir Kevan himself. However, as I said, more than £3 billion is being invested in recovery. The subject of further recovery money will be part of the spending review. It is important that we follow the evidence from the research I outlined in terms of areas of the country that have had a differential impact. For instance, SEN children and disadvantaged children seem to have been impacted most.

Baroness Wheatcroft (CB): My Lords, if the Government intended to be so parsimonious with spending to help children recover the schooling lost during the pandemic, might it have been more sensible to have given Sir Kevan a budget to work with? Can the Minister say how much the Government are prepared to spend and whether they will note the campaign by Marcus Rashford to increase the amount?

Baroness Berridge (Con): My Lords, as I have outlined, money for recovery is the subject of the spending review, which we hope will be a multi-year review this time. In addition to the funds I have outlined, there was a commitment for the core schools budget to go up by £2.6 billion for 2020-21 and by £2.2 billion for 2021-22. All this is welcome extra money for schools, but no one underestimates the tasks that schools are doing both educationally and pastorally at the moment.

Baroness Eaton (Con) [V]: My Lords, lost learning will not be made up just by giving large sums of money to schools. Some 80% of attainment is attributable to pupil-level factors, such as parents knowing how to encourage learning and good relationships at home. The need for family support has become increasingly salient during the pandemic. How are the Government helping councils and their local partners to develop family hubs, which have delivered well in this area?

Baroness Berridge (Con): The noble Baroness is correct that family hubs have delivered well. The Government are investing £14 million and we have just finished a procurement for the National Centre for Family Hubs to ensure that best practice is spread across local authorities. These hubs should bring together charitable as well as statutory services, ranging from birth through to 18 or 19 years old, so they should provide the support that families need.

Baroness Donaghy (Lab) [V]: The Minister knows that this is a mess. When Conservative MPs met the Prime Minister's PPS and two Education Ministers, they were told that

"there has been a big mess-up over the last few days for no reason."

So there is a revolt in the Conservative ranks. What process took place that made the choice of Randstad preferable to the National Tutoring Foundation, which was set up by the Education Endowment Foundation? Sir Kevan Collins himself was briefly CEO of that foundation. If the Government are not prepared to pay up or trust schools, how will they ensure that the children most disadvantaged by lockdown will be helped?

Baroness Berridge (Con): My Lords, as is required, the department ran a commercial procurement for the next years of the national tutoring programme. Randstad won that procurement, so a contract has been signed. But schools are trusted; that is why, as a development of the tutoring fund, £579 million will be going to schools themselves. Schools might want to employ a local tutor or use existing staff; particularly for those with special educational needs, using staff that pupils have an existing relationship with is often of great benefit to those students as well as others.

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, the Disabled Children's Partnership is calling for dedicated catch-up funding for services for disabled children and their families such as therapies and respite, to address the disproportionate impact that they have felt during the pandemic and to allow them to heal. Can the Minister outline what action she, along with ministerial colleagues, will take to address this important issue?

Baroness Berridge (Con): My Lords, in respect of the different funds, there have been three announcements for recovery: the initial £650 million catch-up, then the summer schools, then the £302 million recovery premium, and now we have the school-led element of tutoring. All are weighted for specialist settings, whether SEND or AP, so schools are free to use that revenue in the manner they see fit and for the purposes that the noble Baroness has outlined. We do recognise that those settings need a higher per-pupil allocation.

Lord Knight of Weymouth (Lab) [V]: The Government state that their package should ensure that extra support is available for every disadvantaged child. Following on from what the noble Baroness, Lady Ritchie, has just asked, can the Minister reply in the context of those with SEND in mainstream settings? Inclusion is a really important principle for disabled children to be able to prosper. Exactly how much of the additional £1.4 billion that she talks about will be spent on the therapies and health services that disabled children in mainstream schools need?

Baroness Berridge (Con): My Lords, in respect of the premium of £650 million that I mentioned, although it is weighted, the schools can choose how they spend that money. In respect of tutoring provision, which is school-led, schools can choose to spend that, for instance, on one-on-one provision for SEND children who are in mainstream settings. We have weighted a number of these per-pupil pots but, of course, we trust the schools and school leaders, who are obviously closest to the pupils, to know how to spend that money, what tutoring provision to buy, or whether to run a summer school specifically for SEND children.

Lord Bird (CB): My Lords, to give a slightly different angle to this problem, 400,000 people may fall homeless in the next period according to the Rowntree Foundation, and 1 million people have been warned that they may be evicted. If this hits schools, imagine the damage it will do to the children who are the most dispossessed, as well as those who are living slightly above the level of dispossession but may also be drawn into that. Will the Minister raise these issues with other Ministers? This is becoming a desperate situation.

Baroness Berridge (Con): My Lords, when children and their families are at risk of homelessness, there are obviously certain obligations on the school. A child can be removed from a school register only for specified reasons that the school must outline. If schools do not know of such reasons, they have to liaise with local authorities and make inquiries to be satisfied that the child is on a school register elsewhere. If the child is not on another register, they are a child missing from education. So we have processes in place to track children to make sure they are in education, but I will pass on the noble Lord's comments to colleagues in MHCLG in relation to homelessness.

Baroness Chakrabarti (Lab) [V]: My Lords, just a year ago, the Secretary of State was berating teachers and their representatives, accusing them of scaremongering and not putting children first when they asked reasonable questions about Covid transmission in schools. Indeed, the Government used children and their educational interests time and again as an excuse for entering into successive lockdowns late. What does the sorry episode of Sir Kevan's resignation say about the sincerity of those past claims by the Government, and what does it say about the so-called "levelling-up" agenda and the Government's financial and moral priorities going forward?

Baroness Berridge (Con): My Lords, the Government are determined to do all they can to help those who have been disadvantaged by the lockdowns to catch up on their education. The recovery package will not be the last word on recovery catch-up in education. Schools have done an amazing job in setting up testing, running bubbles and making their schools—which obviously are also workplaces—as safe as possible. One must not forget that, during the second lockdown in the autumn, schools remained open. The Government are committed to students catching up; we are watching the evidence that we get from Renaissance Learning carefully to see what it reveals about the differential impact of Covid in England.

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

House of Lords (Hereditary Peers) (Abolition of By-Elections) Bill [HL]

First Reading

2.17 pm

A Bill to amend the House of Lords Act 1999 so as to abolish the system of by-elections for hereditary Peers.

The Bill was introduced by Lord Grocott, read a first time and ordered to be printed.

Sewage (Inland Waters) Bill [HL]

First Reading

2.18 pm

A Bill to place a duty on water companies to ensure that untreated sewage is not discharged into rivers and other inland waters.

The Bill was introduced by the Duke of Wellington [V], read a first time and ordered to be printed.

2.19 pm

Sitting suspended.

Environment Bill

Second Reading

2.30 pm

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

That the Bill be now read a second time.

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con): My Lords, I declare my interests as set out in the register. I am delighted to commence Second Reading. As we progress with the Bill's passage, I will be assisted by my noble friend Lady Bloomfield of Hinton Waldrist and I am very grateful to her for all her support so far. It is an enormously important Bill that will deliver meaningful change for our environment and support our goals to achieve net-zero emissions, stem the loss of our precious species and their habitats, and reduce the impacts of pollution.

2021 is a "super year" for nature, a turning point. Through the COP 26 UN Climate Change Conference, the Convention on Biological Diversity in Kunming, and the upcoming G7 leaders' summit, the UK has both the opportunity and responsibility to provide world leadership. The Bill is an important part of demonstrating that leadership.

The Bill sets a new and ambitious domestic framework for environmental governance as we maximise the opportunities created by leaving the European Union. It will give the Secretary of State a power to set long-term, legally binding environmental targets of at least 15 years. The Bill's framework allows for long-term targets to be set on any aspect of the natural environment or people's enjoyment of it. However, it requires the Government to set and achieve at least one target in four priority areas: air quality, biodiversity, water, resource efficiency and waste reduction, as well as a target for fine particulate matter or PM2.5.

These targets will be set following a robust, evidence-led process that will include seeking independent expert advice, a role for stakeholders and the public, as well as scrutiny from Parliament. They will build on progress towards achieving the long-term vision of the 25-year environment plan, complement our net-zero target and help tackle some of the serious challenges that remain. We are also tabling an amendment to require a historic, new legally binding target on species abundance in England for 2030, aiming to halt the decline of nature. This world-leading measure will do for nature what our net-zero target is doing for emissions. It will spur action across government and across society on the scale required to address the biodiversity crisis.

The new independent office for environmental protection will hold us to account in ensuring that these targets, and all environmental law obligations on public authorities, are met. The OEP's principal objective will be to contribute to environmental protection and the improvement of the natural environment. It will provide the necessary oversight to support long-term environmental governance. The OEP, chaired by the highly respected Dame Glenys Stacey, will independently monitor the way public authorities implement environmental law. Her appointment is a huge win for the OEP; she is a strong voice for the environment and will not shy away from holding this Government, or indeed any Government, to account. The OEP will track and report on progress on environmental improvement plans and targets. It will also receive and investigate complaints on serious breaches of environmental law by public authorities, taking legal action where necessary. On that note, I thank the noble Lords, Lord Krebs and Lord Anderson of Ipswich, in particular for our detailed conversations already on this matter.

Clearly, the environment must transcend the work of Defra alone. That is why we are embedding internationally recognised environmental principles into domestic law. These principles include the integration, prevention, and precautionary principles, as well as the rectification at source principle and the polluter pays principle. Policymakers across government, from the Department for Work and Pensions to the Department for Transport, will be legally obliged through a statutory policy statement to consider these principles in all policy development where it affects the environment. This is a serious innovation in how the Government make policy.

The resources and waste measures in the Bill will move us away from a "take, make, throw" model to a more circular economy that keeps materials in use for longer. Measures in the Bill will act across the product life cycle so that we can become a world leader in using resources efficiently. The Government will not only ensure that producers are paying the full costs of the waste they create through extended producer responsibility, but empower our citizens to make more sustainable choices, with clearer product information through material efficiency and eco-labelling, in addition to a more consistent recycling system that is common to every local authority

We will provide for more effective enforcement against litter and fly-tipping. We have also taken powers to act on our manifesto commitment to ban the export of plastics to non-OECD countries. These measures combined will have tangible impacts on citizens and our economy, ensuring that the Government are reducing the impact of consumption on our planet. I thank the noble Baronesses, Lady Parminter and Lady Bakewell of Hardington Mandeville, for their interest in these matters particularly.

The Bill gives the Secretary of State the power to amend REACH regulation, including the REACH Enforcement Regulations 2008. Effective regulation of chemicals is essential for the protection of human health and the environment. The UK is a world leader in the management and regulation of chemicals; that does not change now that we have left the European Union. This power will ensure that legislation can keep up to date with and respond to emerging needs or ambitions for the management of chemicals. We will build on our global reputation and continue to provide a strong and influential voice on the world stage as an active party to the four UN conventions on chemicals and waste. We will continue our work to improve regulation, strengthening the evidence base and ambition globally. The intention is to make sure that we have the means to keep REACH fit for purpose.

[Lord Goldsmith of Richmond Park]

We are learning more and more about the damage that poor air quality does to human health, including from knowledgeable advocates in this House. I was pleased to meet the noble Baroness, Lady Worthington, a couple of weeks ago to hear more about this issue from her. The Bill will require the Secretary of State to set at least two legally binding targets on air quality. This will include a concentration limit for fine particulate matter—the most damaging pollutant to human health—and a more sophisticated population exposure reduction target. Last year, we set out our plans for the long-term PM2.5 target to drive continuous improvement through reductions in exposure to pollution for all citizens irrespective of whether future statutory limits have already been achieved. We will set out further detail on this world-leading approach to air quality in due course, including through public consultation. The new powers in this Bill, alongside the existing legal framework for air quality, build on the £3.8 billion we have already invested in action to tackle air pollution.

In a changing climate we need additional tools to help us to manage our precious water resources. Modernised legislation will secure a long-term, resilient water supply and sewerage services. This will include powers to direct water companies to work together to meet current and future demand for water. Planning will be more robust; it will ensure that water companies are better able to maintain water supplies and support Defra's broader efforts to address flooding. We will also strengthen our powers to vary or revoke abstraction licences where these cause environmental damage. These powers will be available from 2028 after our current abstraction plan is fully implemented by 2027. Through the plan, we are collaborating with stakeholders now to achieve sustainable abstraction.

I am also pleased to announce that the Government will be tabling amendments to the Bill in Committee to help to reduce the harm from storm overflows to our rivers, waterways and coastlines. A significant amount of work has gone into this and I thank the right honourable Member for Ludlow, Philip Dunne, in the other place for his work on this hugely important issue.

Many noble Lords share my passion for our natural world, and the nature part of the Bill is full of innovative measures to support our ambitions for a green recovery. I mentioned already how our collective appreciation for nature has increased over the course of the pandemic. Many have discovered new corners of refuge in our local green spaces, and the Government want to ensure that local communities can share these green spaces with the wildlife which calls these valuable habitats their homes. Biodiversity net gain will be mandated in the planning system, ensuring that developments such as new homes are not built at the expense of nature, and creating thriving natural spaces for communities. These will require a 10% net improvement in biodiversity, guaranteeing that richer natural spaces will come with new developments.

Local nature recovery strategies will create strong local leadership to support nature recovery. They will identify priorities and map opportunities for conserving and enhancing nature, helping to ensure that our investments will have the maximum benefit. Local nature recovery strategies will form the foundation of an England-wide nature recovery network. To complement these new tools for nature, we are amending the biodiversity duty in the Natural Environment and Rural Communities Act, following post-legislative scrutiny by a Select Committee of this House, chaired by the noble Lord, Lord Cameron of Dillington. This strengthened duty will require an active process of improvement to conserve and enhance nature, rather than merely maintain the status quo.

The Government have also amended the Bill in the other place to provide for powers to amend the habitats regulations. This will enable us to focus our conservation efforts on our new domestic framework, developed as part of this Bill, while ensuring that we continue to fulfil our international obligations under multilateral environmental agreements such as the Bern convention. Our forthcoming Green Paper will explore how we can deliver this as part of our ambition to halt the decline of nature and protect 30% of our land by 2030. The paper will also consider measures to improve the status of native species such as the hedgehog, water voles and red squirrels.

These measures will collectively underpin the delivery of a new legally binding target on species abundance for 2030, which I mentioned earlier and will table in Committee, aiming to halt the decline of species. This will put our ambition for the recovery of nature on a par with our net-zero ambition.

I thank my noble friend Lord Randall of Uxbridge and the right reverend Prelates the Bishop of Manchester, the Bishop of Chichester, the Bishop of Oxford and the Bishop of Salisbury, as well as the Bishop of Norwich and others whom I met recently, for their valuable contributions on this issue. These new amendments will be complemented by actions set out in our recently published England tree and peat action plans, on which I thank the noble Baronesses, Lady Young of Old Scone and Lady Jones of Whitchurch, for their useful insights.

The Government are working hard to ensure that we tackle biodiversity loss at home, but we are also taking action abroad to protect the world's most precious and significant forests. We are the first country in the world to introduce legislation to prohibit regulated businesses from using agricultural commodities that have been cultivated on land that was illegally occupied or used. Over 90% of deforestation is illegal in some of the world's most important forests, such as the Amazon.

I am aware of the anticipation surrounding the Bill, and, while its passage has been delayed due to exceptional circumstances, work on implementing its measures has not stopped at any point. Dame Glenys Stacey has been appointed as chair of the office for environmental protection, and an announcement on appointments to the OEP's board is being made today. A draft principles policy statement has just finished public consultation, and the Government have started developing our legally binding targets with experts. Technical consultations have been launched, for example on the deposit return scheme for drinks containers, extended producer responsibility for packaging and consistent recycling collections. I have spoken to many noble Lords already about measures in the Bill, for which I thank all noble Lords.

I would like to notify the House that, in addition to the species abundance target and storm overflow amendments, I will table some devolution-related and minor amendments. First, I will table an amendment to increase the scope of the environmental principles duty for UK Ministers to cover reserved matters in Scotland. This will ensure that there is no gap in the application of the environmental principles, and that it is in line with the devolution settlement. Secondly, I will table a couple of amendments requested by Senedd Cymru to enable better collaboration between the OEP and the equivalent devolved bodies. Finally, I will table some minor amendments to ensure that consultations will count towards the statutory duty to consult, even if they are technically conducted before the Bill achieves Royal Assent.

Finally, I hope that noble Lords will agree that this truly is a landmark Bill. It provides a holistic approach, tackling real-world issues, such as simplified recycling systems, through to more structural changes to our environmental governance, ensuring that policy decisions account for the environment. This is an ambitious Bill that will aid our recovery and help us to meet our goals of net-zero emissions, stem the loss of biodiversity and reduce the damage that pollution does to our natural world.

I look forward to what I am absolutely certain will be a rigorous and lively debate. I expect nothing less for a Bill of such magnitude and gravity, at a time when we can wait no longer to act. I beg to move.

2.44 pm

Lord Khan of Burnley (Lab): My Lords, I refer noble Lords to my environmental interests in the register. As a former Member of the European Parliament, I recognise the very real challenge in satisfactorily replacing the EU's environment policy architecture. While nothing is ever perfect, the EU has long been recognised as a global leader on many of the issues that noble Lords will reference today.

Underlying the architecture for a number of decades has been the European Commission, whose enforcement powers play a key role in making member states take their responsibilities seriously. Now that we are outside the EU, we will gradually depart from its policy framework but, in doing so, I hope that the Government will keep and build on the better features, including in their design of the office for environmental protection.

Your Lordships' House has dealt with a variety of significant pieces of legislation in recent years. While I was not a Member at the time, I watched from afar as colleagues tackled the EU withdrawal Bill and its multitude of constitutional implications. Concerns about the environment featured during the debates on that Bill and, despite the passage of time, many remain unaddressed by the Government. Other legislation, such as the Trade Act, was highly contentious.

While we will, of course, approach this Bill in the same constructive spirit with which we approach all government proposals, it seems inevitable that its journey on to the statute book will require cross-party co-operation on key issues and a genuine willingness from Ministers to bring forward improvements.

There is little doubt that we must put in place a new system that protects and eventually enhances our precious natural environment. After all, we are in the midst of a climate and ecological emergency that threatens the survival of many species across the UK and, by extension, our survival as well. Inaction is simply not a choice.

However, we are not convinced that the Bill as drafted will deliver on the lofty promises made by the Prime Minister, the Secretary of State and others. In some areas, it presents a step backwards from the status quo or previous proposals. Even where important progress is being made, such as with new provisions around deforestation and supply chains, there remains a lot of room to be more ambitious.

This weekend, I was in Birmingham, talking to local authority members, including the cabinet member for the environment and transport. I learned about the journey that Birmingham is on to become carbon neutral by 2030, which is very ambitious, considering that the Government's target is 2050 and the West Midlands Combined Authority's target is 2041. We welcome this bold and brave commitment by Birmingham City Council, the largest local authority in Europe.

I also heard about the council's plans to ensure that every citizen has the fundamental human right to breathe clean air. The city council recently launched a clean air zone on 1 June. While I am aware of the partnership between this Government and the council, the important thing moving forward is to understand the impact that the project has on the business community, which has struggled over the past 12 months, especially during Covid. Will the Government and the Minister commit to resourcing local authorities that are seizing the initiative to launch clean air zones—and provide the right level of support to the communities that may be impacted by them?

Sadly, the Bill as it stands does not set a target for air quality, leaving it to the discretion of the Secretary of State. This is a missed opportunity. The WHO guidelines should be seen as minimum requirements, and we call on the Government to use them nationally. Air pollution has reached dangerous levels, with 60% of people in England now breathing illegally poor air. The office for environmental protection will be effective only if it is sufficiently independent of the Government. Parliament must play its role in supporting the principle of the OEP's independence. The public need the confidence that the Government will be properly held to account on their duty to protect the environment.

The UK is currently using and wasting resources at unsustainable levels, contributing to simultaneous climate and ecological breakdowns. UK consumption is now such that the average UK citizen will have a greater carbon footprint in 12 days than citizens in several other nations will have in a year.

Litter is wreaking havoc on British wildlife, killing millions of mammals every year and choking our seas with plastic. There must be an increased emphasis on reducing resource use and encouraging design for resource efficiency, including through reuse. Reducing resource use will ensure a more efficient economy, reduce the effects of extraction and disposal on wildlife and ecosystems and contribute to achieving net-zero greenhouse gas emissions.

[Lord Khan of Burnley]

The Bill is the Government's first opportunity to show that we will not lose out as a result of leaving the EU. If we cannot secure strong environmental protections in the Bill, that does not bode well for the workers' rights, workplace protections and consumer protections that we need in our everyday lives.

2.50 pm

Baroness Parminter (LD): My Lords, nearly half our species—our birds, our bees, our wild flowers—are in decline. Yet we rely on them for our physical health, and indeed for our mental well-being. So we need to respond urgently to this crisis. The Liberal Democrats welcome the introduction of the Environment Bill, but it requires significant strengthening if it is to be sufficiently transformative for the challenges that our nature faces. We welcome the fact that the Government are enabling targets to be set, including, as the Minister said, the 2030 nature recovery target. We know from the Climate Change Act how important targets are for driving delivery right across government and beyond, so long as they are accompanied by legally binding interim targets.

However, in many parts of the Bill, progress is tentative: it is almost as if the Government are moving forward towards environmental protection, yet the dead hand of another government department pulls them back. For example, the environmental principles should be the means of putting the environment at the heart of all policy-making. Yet, as things stand, they are merely for guidance, and are to be proportionately applied. There are critical exemptions: they do not apply to public bodies, to the Treasury or to the MoD.

The Dasgupta review said that it was time for a new vocabulary, to put the environment and its value at the heart of the economy. But by excluding the Treasury, the Government are showing that they are not prepared even to open the dictionary. As for the MoD, that has one-third of all UK SSSIs—our most precious sites for biodiversity and wildlife. That is 117,000 football pitches' worth of our most precious land. Yet although the MoD is subject to the provisions of the Climate Change Act, it is not subject to the provisions of this Bill. Those opt-outs are political choices, to weaken the environmental protection of our country. As things stand, that leaves the environmental principles pretty toothless.

The Minister said that the Bill would be the means of introducing biodiversity net gain. That should be a powerful way of achieving a net gain for our nature in the future. Yet major infrastructure projects are excluded. We need all planning applications and developments to be included, and all government departments to be subject to the provisions of this important Bill.

In certain respects, the Bill leaves the environment worse off than when we were under the auspices of the European Union. It will introduce the new governance body to hold the Government to account—the OEP—and we welcome the setting up of that. However, as it stands, it is insufficiently independent of the Government, whom it is meant to hold to account. It has no power to fine, and its actions are hampered by the fact that if it applies for an environmental review, a court cannot impose any sanctions if those would cause substantial hardship. That just cannot be right.

On Report in the Commons, late additions were introduced, which will sweep away important protections for our most precious habitats for wildlife and biodiversity. Those were previously protected by domestic legislation enacting the EU habitats directive, but those protections are to be swept away to ensure that Project Speed can go ahead. Particular protections for the homes of creatures such as our nightingales and bitterns are to be swept away just so that developers can have a free-for-all in the new zoned planning areas that planning reforms are bringing fast down the track.

In an awful lot of areas in the Bill, the Government are taking powers unto themselves, including on setting provisions for the critical issue of water quality. We need the best quality for our water, yet here the Government seem to be saying, "In future we'll decide who we want to consult, and then we'll tell Parliament what we've decided." Of course we need to look to amend water quality standards as our understanding of the science changes—but the process review must be consultative and transparent, and it must make it clear how any changes will ensure that government targets are being met. As it stands, Clause 83 is not sufficiently robust, and needs significant amendment.

Where the Bill is right is in making clear the vital role of local authorities in delivering nature for their local communities. I applaud the fact that the Government have listened to the lobbying—if I may call it that—of Peers right across this House on strengthening local authorities' biodiversity duties. That is welcome—but they will need the resources to do the job properly. Only recently, the Association of Local Government Ecologists said that only one in three councils has in-house ecology officers.

Local authorities will need the resources, particularly if they are to make a good job of delivering the new local nature recovery strategies. We accept that, as the Government say, those could be a powerful way of bringing together multiple stakeholders and funds, both from biodiversity net gain and from ELMS, to deliver ecologically coherent nature recovery strategies. They could be a really powerful tool, but at the moment they are separate from local authorities' planning functions and strategic decision-making. I look forward to reintroducing an amendment tabled by Sarah Olney MP in the Commons, which would rectify that omission and embed local nature recovery strategies in the planning process.

We know that nature is important for people's mental well-being, but in order to enjoy it they have to have access to it. Recent ONS figures showed that nationally, only one in eight households has access to a shared or private garden. In London that figure drops to one in five. Clause 1 says that the Government "may" introduce targets for people to be able to enjoy local nature, but that is not set as a priority area. In the list of targets that the Government produced last August, which was updated in October, there are no targets for access at all. I know that my noble friends Lord Addington and Lady Scott of Needham

Market—who cannot be with us today—will seek to return to this issue in Committee, because it is critical to increase the proportion of people who have access to good-quality natural green space to enjoy.

As the Minister said, the Government will enable targets to be set for air quality. But we agree with Labour that what is in the Bill now is not strong enough. My noble friend Lady Walmsley, from the Liberal Democrat health team, will seek to work with others across parties in Committee to strengthen the air quality provisions.

In their 25-year environment plan, the Government said that they wanted to improve the environment within a generation. If they really want to do that, the Bill is a little sluggish in certain respects. For example, although I welcome the inclusion of the extended producer responsibility obligations, which could be a powerful way to embed the polluter pays principle in law, the Government have not moved on from some of the low-hanging fruit on which they have already delivered, such as single-use plastic, to address other plastic issues. Why do they not take the opportunity to say in the Bill how they are going to deal with other single-use plastics, such as wet wipes? Wet wipes contain plastic, but we know that they can be produced without plastic, and they are affecting our wildlife and clogging up our waterways.

Equally, where are the measures to address the commercial abstraction of water? There is nothing in the Bill on reducing household water consumption, whose effects we know will be exacerbated in future years by climate change. We will introduce amendments to ensure that there is labelling of water-efficient household appliances, and compulsory water metering.

Of course, this is not just about driving down consumption of our resources; it is also about looking at the UK's global ecological footprint, as the Minister rightly said. We really welcome the inclusion of the due diligence obligation on companies selling commodities in the UK which contribute to deforestation. I would say that we welcome it, given that it was in the Liberal Democrat manifesto, but, credit where credit is due, I take my hat off to the Minister for personally championing this issue. It has been well noted and we are grateful for it. He would be surprised if I did not say that I wished it went a little further, and that we hope it will address both legal and illegal deforestation, tackle the issue of businesses which finance those operations and respect the rights of local communities.

I hope that everybody who will speak today accepts that there is a nature crisis. On that front, I look forward to the valedictory comments of the right reverend Prelate the Bishop of Salisbury, who both in this Chamber and in wider civil society has been such a champion for respecting our planetary resources and encouraging people to take those responsibilities seriously. He will be missed, but I look forward to what he has to say to us today. The nature we love is in crisis. As the Minister said, this is a massively important year for us, with the CBD coming up in October. It is an opportunity for the UK to show global ambition and to have a route map to get there. We on the Liberal Democrats Benches look forward to working with colleagues throughout the House to ensure that this Bill enables the UK to stand proud and to have the ambition and the route map to protect the global and national environment that we all love.

3.01 pm

Lord Cameron of Dillington (CB) [V]: My Lords, I declare my interests as a farmer/landowner and as chair of UKCEH research.

This Bill is a once-in-a-generation chance to set a course for a better quality of life for all flora and fauna, including humans, that live on our overcrowded island. While a 30-year generation is a mere heartbeat in terms of our environment, the same 30 years is also a very long time in politics. So the passion for the environment which I recognise fully in the current Ministers in both Houses must be as of naught to us during our deliberations. We must ensure that this Bill continues to protect our environment as Secretaries of State and Ministers come and go over the years and decades.

It is a huge Bill with much that is very good in it. I shall not outline that because our traditional 10-minute speaking time for Second Readings seems to have been curtailed, but I support most of what the Bill is trying to do. However, there are two main areas where I think we can improve. First, if you were from outside government and were thinking of setting up a body to oversee the Government's environmental performance and to replace the European Commission in this respect, you would definitely never put this body with Defra or under the guidance of its Secretary of State. After all, two of the main bodies that the OEP will scrutinise are the Environment Agency and Natural England, both of which have their budgets and activities almost totally controlled by Defra. MHCLG would be another no-no department, because it manages and partly funds local authorities, which are perhaps the other main target for scrutiny.

In the private sector, when shareholders appoint auditors to scrutinise their company, they have by law to appoint outside, independent auditors, not the internal accounts department of their own company, which is what is happening here. The independent auditors are there to check on the internal accounts department, for which read Defra, and not to do their bidding. Anyone—actually, everyone—can see that the currently proposed set-up is completely wrong. The OEP has not only to be independent but to be seen to be independent. As currently set up, it is neither.

The other area is one where a truly independent OEP would of course come down like a ton of bricks: the urgent need for Defra and the Environment Agency to put right the appalling pollution of our rivers. Eighty-six per cent of our rivers are not in good ecological condition. We have once again reverted to being the dirty man of Europe. Something needs to be done and done quickly. Rumour has it—and the Minister mentioned it today—that Defra has its own set of amendments here, but it would be good to know exactly what is proposed as soon as possible. Even then, I would hope to push the Government a little further. For instance, water pollution is as much about what you are taking out of a river as what you are putting in. Abstraction licences and compulsory water metering are on my target list for amendments.

[Lord Cameron of Dillington]

Then there is the major problem of combined sewer overflows and the huge quantities of sewage we put into our rivers. I shall not bore you with statistics but, believe me, what goes on is totally shocking. From talking to scientists it is clear that river pollution is no simple matter. Every catchment is different and has different problems needing different solutions. We should make better use of existing catchment-based partnerships, increasing their number and formalising them within the Bill. Like the inshore fisheries and conservation authorities set up by the 2009 Act, these catchment conservation authorities should be given more powers to monitor and control their own rivers.

Finally, I want to air a nagging doubt that lurks always at the back of my mind. It is not really to do with this Bill, but it is something we should think on. For sure, our generation of farmers has fallen short by overfocusing on the production of cheap food, to the detriment of our biodiversity and possibly even our nation's nutrition, but we are a very crowded island: England is three times more densely populated than France and four times more than Spain. I worry that, with all our current demands for more habitats, more trees, more forests, more carbon sinks, more rural leisure, more national parks and masses more new housing, all of which I approve of, we will wake up in 40 years' time, in the middle of a third world war, and say, "Hang on, was it your generation that diminished our ability to feed ourselves, so that now we cannot survive?" I am sure we can fit all the land uses into our landscape, but during the frantic activity we shall all have on this Bill over the next few months, we must never forget that the primary purpose of agricultural land is to produce food for our nation.

3.07 pm

The Earl of Lindsay (Con) [V]: My Lords, I am grateful to my noble friend for setting out this important Bill. I am grateful too for his long-term advocacy of many of the proposals it contains.

The Bill offers a unique opportunity to create a coherent, long-term framework for the environment that is capable of motivating all sectors and all parts of society to plan, to commit to and to collaborate on improving the environment on which we and future generations depend. I therefore especially welcome the Bill's seeking to address the core governance elements that will be needed for the decades ahead. This is the critical component. Business will clearly have a key role to play in delivering the changes needed to meet our long-term environmental ambitions and hit our net-zero target. Unlocking private sector finance and investment will be essential, particularly given the pressures on the public purse.

For businesses to feel able to invest for the long term, it goes without saying that their trust and confidence will be prerequisites. Such trust and confidence will to a large extent depend on the governance mechanisms and processes by which long-term environmental targets and a national environmental improvement plan are set. This begs the question: do the governance mechanisms and associated processes proposed in the Bill need optimising?

The Institute of Environmental Management & Assessment—IEMA—and the Broadway Initiative are two respected bodies which think that the answer to this question is yes. They see a lack of alignment and coherence between the objectives and processes in different elements of the governance framework proposed in the Bill, which, if it remains unresolved, could result in their pulling in slightly different directions. For businesses, this raises questions about predictability and could unintentionally undermine their confidence to invest. For instance, Clause 1 places a duty on the Secretary of State to set at least one long-term target in each of four priority areas, but no directly stated purpose or outcome is specified to guide setting targets. Making good this omission would help increase certainty for businesses.

Another example is to be found in Clause 7, which covers environmental improvement plans, or EIPs. Their implementation will be key to achieving national, long-term environmental targets. While an EIP will be required to include interim targets, there is no specific requirement for one to include the policies and actions that the Government intend to take to ensure that long-term environmental targets are achieved. Is it not the case that the confidence and certainty that businesses need to make long-term investments would be strengthened if the Bill required EIPs to include the policies and actions that the Government intend to take? I can therefore understand why bodies such as IEMA and the Broadway Initiative see it as essential that the Bill closely aligns its core governance elements with a coherent set of objectives to give businesses the trust and confidence that they need to invest in the future.

Trust and confidence are also the watchwords that will underpin the development of environmental markets. There is a significant private sector interest in the potential of well-designed markets for nature alongside sources of private funding that are potentially available to support nature recovery. However, to maximise the impact of both public and private investment in nature, there is a need for agreed standards and accreditation to give confidence to markets, investors, regulators and other stakeholders. I declare an interest as chair of the United Kingdom Accreditation Service—UKAS—which is the government-appointed national accreditation body. UKAS accreditation already provides this confidence and assurance in many environmentally related areas, such as carbon trading schemes, emissions measurements, the microgeneration certification scheme and the Woodland Carbon Code, to name but a few. We work closely with our UK quality infrastructure partner, the British Standards Institute—the BSI—in the development of consensus-based standards that meet the needs of all stakeholders. In short, the UK already has in place a proven means to create both the standards framework that will be needed and the underpinning accreditation to demonstrate whether and where those standards are, or are not, being achieved. As the saying goes, if you cannot measure it, you cannot manage it. This is especially true if this Bill is going to achieve its effect.

In conclusion, I strongly support this very important Bill. It is a good Bill and, with a few tweaks to its governance proposals, it could become an even better one.

3.12 pm

Lord Oates (LD): I declare my interest as chairman of the advisory board of Weber Shandwick UK.

The Bill comes before the House following Professor Dasgupta's influential review of the economics of biodiversity. The opening paragraph of that review sets out the stark challenge that we face.

"We are totally dependent upon the natural world",

it reminds us, and goes on to say:

"It supplies us with every oxygen-laden breath we take and every mouthful of food we eat. But we are currently damaging it so profoundly that many of its natural systems are now on the verge of breakdown."

The report goes on to highlight that

"our demands … far exceed Nature's capacity to supply"

us with the goods and services that we all rely on; that biodiversity is declining faster than at any time in human history; that our unsustainable engagement with nature is endangering the prosperity of current and future generations; and that at the heart of the problem lies deep-rooted, widespread institutional failure. The report warns us that reversing these trends requires action now. The Bill has to be measured against these challenges and, while I welcome much of it, regrettably, it falls short in a number of respects.

The first of these is on targets. Instead of action now, we have action sometime in the future. While the framework for setting environmental targets is to be welcomed, we need to have binding interim targets alongside the long-term ones so that we can ensure that we get started on the journey, underline the urgency of taking action now and ensure that Ministers can be held accountable for targets in the immediate future. In some cases, such as air and water pollution and water conservation, we simply need far more ambitious measures now.

Secondly, where we needed a powerful, independent office for environmental protection, backed up by the full force of the law, the Bill gives us a hobbled regulator, its independence compromised by the ability of Ministers to interfere in how it carries out its enforcement functions and its effectiveness undermined by the constraints placed on judicial enforcement, as my noble friend Lady Parminter pointed out. As briefings from the Bingham Centre and ClientEarth have highlighted, the Bill curtails the power and discretion of the courts. Extraordinarily, Clause 37(7) states:

"A statement of non-compliance"

by the court

"does not affect the validity of the conduct in respect of which it is given."

Clause 37(8) compounds this reversal of legal precedent by constraining the power of the court to provide a remedy if that would

"cause substantial hardship to, or substantially prejudice the rights of"

any third party.

In its briefing, ClientEarth gave an indicative example of how absurd this is. If a permit for a new mine was granted with a failure to consider the impact on air quality, such that the operation would cause serious pollution and adverse health impacts for many years, the court could not quash it unless it could show that it would not cause serious hardship to the mine owner or substantially prejudice their right to operate the mine. The court would obviously not be able to do that; as a result, the mine could operate indefinitely, regardless of its impact. Far from addressing the institutional failures that Professor Dasgupta highlighted, the compromises to the independence of the OEP, and the constraints on the courts' ability to enforce environmental law, bake that failure in from the very start. I am sure that noble Lords will wish to improve the Bill in this area during its passage through this House.

Another area that will need to be addressed is the role of local authorities in protecting biodiversity. While the Bill has much to say about the duties of local authorities—as my noble friend Lady Parminter said, that is welcome—it has next to nothing to say about their powers to carry out these duties. Local authorities are on the front line in protecting biodiversity and they need to be empowered to do so. Consequently, I intend to table amendments in Committee that would allow local authorities to designate land as a site at risk of biodiversity loss, with associated powers to inspect such land and enter into conservation covenant agreements with landowners, as provided for in Part 7 of the Bill.

We welcome the fact that this Bill is finally before this House but we regret that the urgency of action that the *Dasgupta Review* called for is largely absent, despite the Minister's declaration just a few minutes ago that we can wait no longer to act. We regret that institutional weaknesses remain abundant and are, in fact, reinforced by the Bill. Improvements to the Bill need to be made across a wide range of issues, including tackling air pollution, protecting local and international biodiversity, acting to end the financing of deforestation, enforcing packaging waste responsibilities, conserving water resources and protecting rivers from pollution.

However, there is good news for the Minister, who I do not doubt would prefer a much more effective Bill, given his personal commitment to this subject. We intend to help him out by working across the House to bring forward constructive amendments to strengthen the Bill and tackle the urgent challenges that noble Lords, including the Minister, have so starkly highlighted.

3.18 pm

Baroness Boycott (CB): My Lords, like all noble Lords, I welcome this Bill and congratulate the Minister on his passion and conviction on this. However, there are a number of concerns.

The first is about the office for environmental protection. If the Government take the environment as seriously as they say they do, I do not understand at all why this cannot be an independent body, of the nature of the National Audit Office. However much the Government choose to stretch the definition, its independence will always be constrained because of its nature as a part of Defra. I fail to understand why the Government think it would be constitutionally inappropriate to allow this body to have the power to initiate legal enforcement proceedings against the Government. Just the other day, I was speaking to someone who lived on and looked after the upper reaches of the Test. This is looked after by Southern

[Baroness Boycott]
Water yet, at the same time, that company is siphoning off money from the water, which is damaging the river course further down and reducing the wetland. We are going against each other—who is going to sort this out?

I am also concerned that the OEP will not have enough funds. A lot of this is about investigation—looking, visiting, seeing and monitoring. A whole series of attention-grabbing green headlines will become meaningless if we cannot enforce the good environmental rules we need.

I would like to talk about a couple of things that are very scary right now. One, mentioned by my noble friend Lord Cameron, is the UK's rivers. I declare my interest as someone who swims in rivers a lot; I have swum in three in the past week. But I take my life in my hands, because I know that agricultural pollution is rampant and we release untreated human sewage directly into our waterways. This is due not to a lack of laws but to the inability to enforce these laws. There are regulatory agencies in England and Wales, but they have been drastically weakened by cuts to their funding and resources.

The EA's environment and business budget, which covers agricultural regulation, waste crimes and incident response, has been cut from £117 million in 2010 to just £40 million in 2020. Even if you do not allow for inflation, that equates to an effective quartering of what we spend per year. The net effect is that in many critical areas our regulators are completely impotent. For example, in 2019-20, the total budget for agricultural enforcement across England was just £320,000, equating to 0.65 full-time staff in each of 14 areas. Such drastic cuts to regulatory agencies mean that polluters can continue, secure in the knowledge that they are unlikely to be caught or prosecuted. Staggeringly, each farm in England can now expect an inspection just once every 263 years. It is useless. The number of court actions against river polluters fell from 235 in 2002 to three last year.

Currently, the state of many of our farming and policing policies means that on the River Wye—a place I am concerned about and a place where I swam—you can erect sheds containing 40,000 birds. These are usually paid for by big multinationals, which get tax breaks, as the sheds are classed as farm buildings although they are factories. There is almost no authority to stop them putting the slurry, the chemicals, the phosphates and the sewage back into this amazing river, which is now almost without fish in large chunks.

As has been brought up by many noble Lords, in particular the noble Lord, Lord Oates, I am also concerned about the planning permissions. The proposals on net gain and protecting habitats will become much more difficult.

In my remaining couple of minutes, I would like to bring the House's attention to something very current; it happened last week. Noble Lords may or may not like Knepp rewilding estate in Horsham, but it is a beacon of an attempt to bring rewilding into this country. It is visited by hundreds of thousands of people; it has set a fantastic standard. Yet the owners of Knepp lost a case just last week. Horsham District Council declared by six to three that it will allow a housing estate of 3,500 new houses right on the border of this extraordinary natural wilding achievement. The Minister just said that we want 30% of land to be maintained for nature, so what on earth is happening? Horsham District Council, which has its own nature recovery programme, has been leaned on by the Government to produce more houses. It appears, staggeringly, that this project will go ahead.

I believe the Minister: having visited Knepp, he knows how wonderful it is. We, with Natural England, want to encourage more such places around the country—little ones, big ones and ones that entrance adults, children and teachers about the flora and fauna that are so precious to us all. Yet 3,500 houses will block the nature corridor, bringing pollution, noise and light right to the edge of Knepp, not even separated by a road. Something has to be done. I am pleased with the Bill but, my gosh, it needs a lot of work, and I will be supporting all the amendments I believe in.

3.25 pm

The Lord Bishop of Oxford [V]: My Lords, it is a real honour to speak in this debate and share in the passion and expertise of this House in favour of clear, swift, accountable action to safeguard the environment and combat climate change. It is a particular pleasure to pay tribute to my colleague, the right reverend Prelate the Bishop of Salisbury, who makes his valedictory speech today, to which I look forward. I thank Bishop Nicholas for his leadership within the Church of England, this House and more widely on climate questions. That leadership has played a key role in our national Church's commitment to net zero by 2030.

The evidence is stark. Humanity stands at a crossroads in these next five years. We have a tiny window to make rapid decisions and take action that will affect the life of the entire planet for, perhaps, centuries to come. The majority world is looking to us and this Parliament for justice, for an example and for leadership on climate and environmental matters in this year of COP 15 and COP 26. My sister and brother Anglicans in Kenya, South Africa, Bangladesh and many other places are already suffering the effects of our and others' delay. Future generations—today's young people—look to us to take the right actions now to give them at least a better chance of keeping global heating below 1.5 degrees. We are stewards of this good earth—God's wonderful creation. As a nation, we bear a disproportionate responsibility for its present condition. As a Parliament, we have the opportunity for extraordinary and disproportionate leadership for the coming decade. It is a powerful testimony to human endeavour that our combined impact on the planet is now rapidly altering its climate and threatening the life of the earth. It is a powerful insight into the complexity and selfishness of the human heart that progress in environmental matters is so immensely difficult.

In that context, I warmly welcome the Bill. As other noble Lords have said, it is wide-ranging and contains a number of ambitious targets. The Bill will be closely watched as an indicator of the Government's priorities in the run-up to COP 26. The creation of the office for environmental protection is a vital and imaginative step forward. However, I do not yet see in the Bill sufficient guarantees of financial and political

independence essential to good governance. I believe this has now been mentioned by every noble Lord who has spoken thus far. The trajectory is clear, and I hope that the Government will listen very carefully and take action.

Many of the decisions required of the OEP across the next decade will be difficult and unpopular politically, but right and just in terms of risk, geopolitics and intergenerational equity. Financial and political independence for the OEP is therefore essential. Parliament and government need a voice in both appointments and budgets for the OEP not only to lead in the United Kingdom but to be a gold standard internationally.

It is never easy to share or give away power or entrust oversight to others. But this new body must be above party politics and immune to particular Ministers' enthusiasms or lack of enthusiasm. I urge the Secretary of State to give further serious consideration to measures that will strengthen the financial and political independence of the OEP in the debates that will follow. I warmly welcome the Bill.

3.29 pm

The Duke of Montrose (Con) [V]: My Lords, I welcome the Bill and declare my family interest as a livestock farmer and other interests in the register.

This is a massive Bill. We can see that, overall, we have worked on this topic in many guises before, and that is well exemplified by the huge sections devoted to amending previous legislation, right up to the Natural Environment and Rural Communities Act 2006. In addition, there is a virtual forest of Henry VIII powers, which I hope your Lordships will be able to narrow and point more clinically where necessary.

The elements I draw to your Lordships' attention are, first, the statement of principles; secondly, the 25-year plan to improve the environment; and, thirdly, the current calculation of our agricultural emissions. On the first, I hope we can get a bit more detail on the principles we can expect over and above the generalities listed, and I eagerly await the government amendments that my noble friend the Minister hinted at earlier. In its briefing, the Countryside Alliance outlined a few suggestions, and I think there could be merit in its innovation principle and possibly in its appropriate scale principle. The Bill already incorporates the precautionary principle, which might do with clarification on whether it applies to definable harms or must include unknown harms, as it has done before.

Other than straightforward environmental elements, the Bill's essential contribution is that it combines the element of sustainability with environmental and species recovery. The main strategy for this is already laid out in the 2018 policy paper *A Green Future: Our 25 Year Plan to Improve the Environment*. This incorporates and addresses more directly the questions of mitigating and adapting to climate change.

As we struggle to find a commercial solution to the capture and storage of CO_2 to meet the targets set for us, adaptation and mitigation on land is still one of the major paths we have found, so there is immense pressure on land managers. Anyone who farms will see this as an attempt to manage nature—and there are few things which are more unpredictable than nature. Good scientific data in this field is available for the carbon potential of forests and peat bogs, and there is a lot on emissions from livestock. However, as yet there is nothing very comprehensive on grassland.

Traditional and organic agriculture are heavily dependent on the benefits that accrue from having ruminant animals as part of their rotation; that is stated in the 25-year plan. To address biodiversity and carbon storage, a necessary place to start is with soil, which is much degraded in some areas. The Agriculture and Horticulture Development Board has produced figures some of which sit uncomfortably with our popular preconceptions. It estimates that degraded arable soils contain only 23 tonnes of carbon per hectare, whereas in mixed woodland and improved grassland the soil contains around 63 tonnes of carbon per hectare. The surprise comes with permanent grassland, which contains 83 tonnes per hectare. Surprisingly, if that is then planted with trees, it might take a few years to balance out the loss of storage capacity with the amount of new carbon to be accumulated in the crop.

The latest news on grassland I have received is that our friends in Australia and New Zealand, with whom we are likely to be sharing our markets, are now working towards net zero in the production of sheep and cattle. This would be an immense challenge to our production, and the industry here will be looking to see if there are lessons that we can learn and how we could move in that direction. Agriculture is currently burdened with responsibility for 10% of UK emissions. If these lessons are meaningful, this could change markedly, and it could bring the association of grazing livestock with carbon emissions more into line with other foodstuffs.

I look forward to Committee stage of the Bill.

3.35 pm

Baroness Young of Old Scone (Lab) [V]: My Lords, I declare my interest as chairman of the Woodland Trust and my involvement in a range of environmental charities, as listed in the register.

Ministers must quail when they hear noble Lords welcome a Bill as an okay Bill and then go on to say that it will need substantial amendment to become a better one. I welcome this Bill, at long last, but it needs amendment to do the job. I thank the Minister for meeting me to discuss some necessary amendments.

The species abundance target that the Government have indicated they will come forward with needs to provide clear, measurable statutory targets and interim targets for biodiversity, to match the statutory targets we already have for climate change and to enshrine in law a commitment to a 2030 target to halt and reverse biodiversity decline—a commitment that the Government have already made. We look forward to seeing the detail of this addition to the Bill, and I hope that the Government welcome and act on the recommendation of the Delegated Powers Committee that the publication and any subsequent amendment of the biodiversity metric should be subject to parliamentary scrutiny.

The Bill also needs to provide long-overdue statutory protection for ancient woodland. Noble Lords have heard me go on about that before. We need similar protection to that accorded to sites of special scientific interest. We need a statutory basis for the England tree

[Baroness Young of Old Scone]
action plan to ensure that it is indeed action, gives proper priority to native woodland and does not end up overfocusing on commercial forestry as part of the dash for trees.

But perhaps the most important thing as we see the Bill through our House is to help the Government join up two pieces of important legislation. The planning reform Bill is not yet published, and I have big suspicions about it. Rumours abound that it will designate land, in a top-down way, as either suitable for development or to be protected, and leave local communities powerless. As other noble Lords have highlighted, if the planning reform Bill is not to counteract completely the protection provisions of the Environment Bill, we need in statute measures to link and harmonise these two pieces of legislation. The Environment Bill needs to give a legal status to local nature recovery strategies so that plans, planners and developers have to take account of them.

We also need to enshrine in statute a land-use framework for England. I tried to do this during the passage of the then Agriculture Bill and was told that the Environment Bill was a much more suitable place to put it—well, here we are, now at the Environment Bill. The planning Bill sounds like it will have an oversimple, binary approach to land use: worth protecting or worth developing. The reality is that we need a much more nuanced approach to land use, as it needs to deliver multiple benefits: biodiversity, conservation, climate change, food, flood risk management, water quality, health and mental health, to name but a few. Land needs to be multifunctional and to deliver a whole range of public and private benefits, and we need a land-use framework to do that.

A number of other changes to the Bill will be necessary. The Government's commitment to a much-enhanced tree planting programme will be fruitless if imported tree and plant stocks do not have to be disease free and conform to a single clear plant and tree health standard, with UK and Ireland-sourced and grown planting stock being an absolute requirement for all planting supported by public funding. A much wider network of safe nurseries should be established now in preparation for the future, creating jobs as well as safeguarding tree and plant health and preventing future decimations of newly planted stock by the introduction of tree and plant diseases.

There are many other amendments which noble Lords will want to see, and we have heard about some of them already. This is a big Bill, which risks getting even bigger. The Minister will no doubt threaten that if we attach too much to it, it will be further delayed, or even collapse under its own weight. I am always rather mystified when Governments say that; there is one simple way of getting a Bill to go through quickly, and that is to accept some sensible amendments rather than resisting them at all costs. If the Government did that, the Bill would progress more quickly, the environment would be better protected, and we would all be happier. I hope the Minister will confirm that he will do just that.

We need not just an amended and stronger Bill but action. We are striding the global stage right now, with the G7, with COP 15, and especially when we host COP 26 in Glasgow. We need domestic action at a scale and pace which inspires global action and encourages leaders to tackle climate change and promote biodiversity across the world. The Government are going to find providing global leadership jolly hard to do if back home they have been resisting every sensible improvement to this Bill.

3.41 pm

Lord Teverson (LD): My Lords, I declare my interest as chair of the Cornwall and Isles of Scilly Local Nature Partnership.

Here we are, nearly two years after Theresa Villiers introduced the Environment Bill in the other place on 15 October 2019. It will be two full years until this Bill becomes an Act. I look forward to that, but as my noble friend Lord Oates and Professor Dasgupta said, we are in a crisis of biodiversity, yet we amble along, fiddling while forests burn and polluted rivers flow under bridges. We need urgency here, and this Bill, excellent though it is in many ways, does not show that urgency, nor the decisive need to start to put the biodiversity issue right. A year before 2019, we had the 25-year environment plan, which is now three years old—and what has happened? We had a National Audit Office report last year which was damning about what had been undertaken by the Government in the meantime. I regret that it said there was very patchy co-ordination between government departments on the environment, something which is a characteristic of this Bill as well. The report also said that there were no costed plans to meet the visions in the 25-year environment plan, and I will come back to that regarding the nature recovery networks.

There are a couple of areas for strengthening the Bill which I will talk about. We have a global gold standard—something similar to what we want—in the Climate Change Committee, set up by the Climate Change Act 2008. That committee is admired worldwide and by this House, and does excellent work. I do not understand why we cannot have a biodiversity body which is the same—or, even more radically, why do we not make biodiversity one of the Climate Change Committee's responsibilities as well? It already deals with that area, and they are well connected. Then we can have the OEP, with its limited budget and staffing, looking just at enforcement. We are rubbish at enforcement in this country, whether by the agencies which cannot afford to implement it, or by the local authorities which also lack the resources. Noble Lords have already discussed the OEP, and I will not go on any further about that, although I was going to. Clearly its independence with regard to its budget is in doubt while it sits within Defra. I have much admiration for Defra, but I absolutely agree with the noble Baroness, Lady Boycott, that the OEP should not be in Defra. Defra describes itself as the "Defra family", and within it you are expected to look after your family members, as in the Mafia. That cannot be the case for an enforcement organisation.

The one area which this Bill ignores almost completely is marine, as I have discussed with the Minister before, and he has been very receptive, for which I thank him. Marine is very important for the environment; we are an island nation. Under the United Nations Convention on the Law of the Sea, we have 884,000 square kilometres

of sea under our jurisdiction. Yet the UK's land area is only 242,000 square kilometres—only a quarter of the size. The Bill ignores that part of our environment, despite its importance in carbon sequestration in seagrass and similar areas. We are weak at enforcement of marine conservation areas. I very much welcome what Defra has done with the blue belts for our overseas territories, although enforcement of those is not adequate either. With the appointment of the noble Lord, Lord Benyon, to Defra, I very much look forward to him implementing his own report into higher-level marine conservation areas. But the Bill says nothing about marine, and surely it must.

Nature recovery networks are a great idea, and in Cornwall we have a pilot of the nature recovery network strategy which is being sent to Defra as I speak. They are a great concept, and yet, as far as I can see, they have no route to resources to actually deliver them, and they are not statutorily strong enough to ensure that local authorities actually have to comply with them. There may be some funding around ELMS and agricultural areas, but if we are serious about these strategies, then they must have a statutory basis and be resourced.

I too welcome this Environment Bill. We are in a biodiversity crisis. We need quick implementation, so I hope the Government will listen to some of these amendments so that we can speed this process through. I look for the Minister to be as co-operative with us as he has been in many of our conversations over the last year.

3.47 pm

The Earl of Lytton (CB) [V]: My Lords, I am delighted to have the opportunity to debate this important Bill, and in doing so declare my relevant interests as a vice-president of the LGA, as a professional involved in construction and land management, and as the owner of land and buildings with environmental significance. I welcome the general thrust of the Bill, its proposals for net environmental gain, and also applaud the proposals to tackle air pollution in urban areas, and the new responsibilities for waste materials such as plastics. However, I am concerned that the Bill is not holistic in its own terms. Its definition of "natural environment" excludes the human dimension, especially in terms of the built environment, a matter which the Country Land and Business Association has raised. It is the environment which we create and use, and which involves the generation of huge quantities of waste, not only from construction materials to create it, but plastics from normal occupation and home delivery packaging in particular. It is our first priority that this Bill is not just for wildlife and habitats, but for the very well-being of the globe and, with it, the future of mankind.

At the local level, even buildings are habitats, and those of us with historic houses know how many critters share our homes. Following on from that, I find the exemption of taxation spending and the allocation of resources from within government from the primary effects of this Bill disturbing. It suggests that this area may not benefit from joined-up thinking. It is this very issue—silo thinking across much of government—that has fettered progress for so many years. To that extent I welcome the overarching office for environmental protection, and hope that, in future, reporting of environmental misdemeanours does not simply fall on the same deaf ears which I have encountered in questioning such things as asbestos in crushed concrete, used for construction, and malodorous effluent in drainage ditches. At the same time, I hope that proportionality will prevail. I mention here the polluter pays principle, which, when translated into reality, means that if the polluter or fly-tipper is undiscovered, it is the objectively innocent owner, or perhaps the community, who become responsible. Equity matters, and I have always thought it unjust that societal ills should be laid at the door of the innocent simply because HM Treasury wants to prevent a burden on the public purse, and spots what it thinks is a deep pocket.

The noble Earl, Lord Lindsay, raised a point with which I entirely agree: that environmental policy has often suffered from a lack of proper measurement and objective assessment. If net gain is to have any meaning beyond the facility of sectoral interests to make it mean whatever they choose, or for public administrations to use for some other purpose altogether, we need something less ethereal than carbon counting. Most people understand the efficiency code on our appliances, energy performance ratings of buildings and smart meter information. However, they do not have comparable information on the true environmental cost, which could include the embedded energy involved, the cost in use that includes maintenance, and end-of-life disposal of many daily life products and processes.

I refer to the point raised by the noble Baroness, Lady Boycott, about new housing being constructed near the Knepp Castle estate, to which I am a neighbour. That is an area where housing has been planned or, rather, dumped—where everybody will have to use a car; where there is certainly an issue of water shortage; where there is no character, design merit, locational culture, identity or sense of community purpose or cohesion, which is why the built environment matters, because unsustainable environments simply are a cost on the environment in themselves.

We have to ensure that the Bill takes the public with it; that the message is clear and uncomplicated and that the processes of decision-making are objectively sound, transparent and consistently applied. If not, people will simply lose confidence.

I particularly want to mention single-use plastics. The amount of plastic waste in construction is phenomenal. Certainly, my litter-pick along the lanes near my home tells me that something needs to be done to prevent wholesale despoliation. However, it does not mean that all plastic is bad, as one authority of my acquaintance has tried to suggest in having a policy against protective plastic coatings on metal roof sheets. As a valuer, I know that such coatings double or treble the lifespan of the material and that one of the ways in which environmental or any other accounting should be steering us is lengthening lifespans of products, as the Minister mentioned. It also means being able to get spare parts, so that a life of 20-plus years for a domestic appliance becomes the norm, just as 50 years should be for a metal roof sheet, or 10,000 hours for a light bulb.

[The Earl of Lytton]

Valuation is also the key to investment, as the noble Earl pointed out. A scheme to revitalise peat-land and water retention on the southern slopes of Exmoor is an example of how long term such programmes may be, as peat deposits grow at no more than 1 millimetre a year, I am told.

All these need to form part of the equation. I very much applaud the proposal for a deposit scheme for single-use containers. As a 10-year-old, I used to get a lot of my pocket money by picking up returnable bottles from the roadside. But essential to this is a unified national scheme which really works; something along the lines of the Scandinavian idea, which seems to have cracked it, where it is easy and environmental improvement is as convenient as possible. We have to bear in mind that producers' and retailers' responsibility takes us only so far, because of the huge amount of plastic and other waste in circulation in landfill and floating in our oceans.

There is an awful lot to do. I wish the Bill well but, like other noble Lords, I fear it will need some amendment.

3.53 pm

Baroness Jenkin of Kennington (Con): My Lords, my Twitter bio starts:

"Hates waste of all kind",

and so I do. Whether time and money or other forms of waste, such as energy, water and food waste—matters we are discussing today—"conserve" is my watchword. For those speaking from the Conservative Benches today, there should be a clue in our name.

Not only do I run around my home switching the thermostat down and the radiators and lights off, I do as much as I can in this crumbling old building, turning the lights off, but sadly the radiators are still controlled centrally, so I am unable to turn them off or down, despite the heat inside and outside and the fact that the windows are still all open. I am careful with water usage. I loathe fast fashion and the thought of textiles going to landfill. In fact, I hired my wedding dress 33 years ago, pioneering a very welcome trend which has become unexpectedly fashionable.

Clause 1 requires the Secretary of State to set at least one long-term environmental target for each of four priority areas. As may by now be obvious, I will focus on the fourth, resource efficiency and waste reduction. Michael Gove's foreword to the December 2019 resources and waste strategy includes the following:

"Our goal is to move to a more circular economy, which keeps resources in use for longer".

Three cheers for that, but is this not the time for the Government to develop an indicator of how circular the UK economy is and then to set a long-term target for how circular we want it to become?

The extended producer responsibility of Clause 49 and Schedule 4 will mainly focus on the current consultation on EPR for packaging. However, in the resource and waste strategy, the Government indicated other waste streams for consideration, including the possibility of an EPR scheme for textiles and clothing as an early priority. Given that I made a pledge about five years ago never to buy any new item of clothing, barring underclothes, for the rest of my life, this is welcome news.

As a former board member of WRAP, the Government's delivery partner, I welcome its latest voluntary agreement, Textiles 2030, designed to provide the UK clothing and textile sector with the tools to enable it to halve its carbon footprint by 2040 on the way to achieving net zero by 2050.

Although plastic is a magical invention, we have to do more to reduce its use. I cannot imagine buying anything, especially bottled water, in a single-use plastic bottle and Clause 54 is welcome. WRAP has already done good work in this area, under the UK Plastics Pact, reporting in December last year that 400 million items classed as problematic or unnecessary were sold by pact members, a reduction of 40% from 2018. This is welcome progress, although there is clearly much more to do.

Finally, I come to my greatest bugbear: food waste, addressed in Clause 56, currently under consultation, which makes standardisation of waste collection requirements to local authorities to collect the same range of material for recycling from households and, belatedly, to provide a separate weekly food waste collection. The noble Lord may know that if food waste were a country, it would be the third largest emitter of greenhouse gases after America and China. A mandatory weekly food waste collection will help to transform our engagement with food and food waste, making people more aware of the amount of food they chuck out.

I remember meeting Rory Stewart when he was Defra Minister over six years ago and him enthusiastically advocating for all this. Why does it take so long and when is the long-delayed consultation on mandatory reporting to be launched? While on the question of food waste, would my noble friend undertake to look again at the issue of feeding this waste, treated at the right temperature, to pigs? Reintroducing this practice, properly regulated, would also have the advantage of reducing the amount of soy, as feed, grown in parts of the world where ancient rainforests are being cut down, not to feed the indigenous people but for our food stock.

The Bill is the first piece of major environmental legislation in 20 years. Leaving the EU has provided us with the chance to radically improve environmental policy and to put the environment at the heart of policy-making. We will not have a second chance and we must grasp the opportunity to be radical with both hands to make this country and the planet a more sustainable place. Government and individuals must play their part. Our very survival as a species is at stake.

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

3.59 pm

Lord Trees (CB) [V]: My Lords, I very much welcome the Bill. I welcome the introduction of an office for environmental protection; the efforts to tackle waste and simplify recycling; to tackle littering, which is a national disgrace; the measures to improve and enhance nature, biodiversity and conservation; and many other

aspects of the Bill. Others more qualified than I am will doubtless comment on these at great length—some already have.

I would like to discuss three issues. The first concerns antimicrobial resistance and the environment. The current pandemic has emphasised the catastrophic consequences of emerging infectious diseases, but globally we face another major health challenge, that of antimicrobial resistance, so ably championed by the former Chief Medical Officer, Dame Sally Davies, and the subject of a major report led by my noble friend Lord O'Neill. As a result, this issue is now included in the UK national risk register.

This challenge is of course posed by existing known infections which can develop or have developed resistance to currently available drugs. In response to this major global threat, the Government have published a UK five-year national action plan on AMR for 2019-24. This plan includes a substantial section involving the environment: for example, to better understand how AMR spreads between and among humans, animals and the environment. The plan emphasises the need to minimise the spread of AMR through the environment, deepen our understanding about AMR in the environment and minimise antimicrobial contamination of the environment. Given such a fundamental threat to human and animal health which involves the environment, it is surprising that this extensive Bill, in all its 249 pages, does not mention AMR once.

One appreciates that the Bill has to cover a wide range of issues but perhaps this is a missed opportunity to highlight the importance this Government place on the threats posed by AMR. This has been highlighted by the APPG on Antibiotics in a letter to the Secretary of State for Defra from its chair, Julian Sturdy MP. I declare here an interest as an officer of that APPG. We are very grateful for a detailed response to that letter from Rebecca Pow MP, the Parliamentary Under-Secretary of State. However, it appears that currently there is no mandatory routine surveillance required for antimicrobials in the aquatic environment, nor is there routine surveillance for antibiotic resistance among bacteria in that environment. These seem to be essential data-collection functions which would help enable the national action plan to deliver its objectives. Moreover, it is not clear who will be responsible for setting environmental quality standards for antimicrobial environmental contamination. I appreciate that the Bill leaves much detail to secondary legislation but, given the importance of AMR for environmental, human and animal health, will the Minister consider making specific reference in the Bill to actions to monitor and mitigate AMR?

There are two other issues I would like to raise. The first concerns Clause 133 and the amendment of REACH legislation, which concerns the safety of chemicals. In previous debates on Brexit and REACH, I and others were concerned that data derived from animal testing for the toxicity of chemicals should be shared between European and other competent authorities to minimise the use of animals in such toxicity experiments. Animal welfare is an important priority for this Government; avoiding the need to replicate animal experiments in different jurisdictions while protecting consumer safety would be an obvious way to demonstrate this commitment. Can the Minister assure the House that in any amendment to REACH legislation, this will be a significant consideration?

The last point I wish to raise is connected with Clause 109 on "forest risk commodities", the principle of which I wholeheartedly welcome. I raise it in connection with food, especially the potential of livestock imports reared on areas recently deforested, or on soya bean or other feed crops grown on cut-down forest. The explanatory notes to Schedule 16 state that among forest risk commodities, beef is

"likely to be considered for inclusion".

This I would welcome, but it is not explicit in the Bill. Moreover, the Bill currently refers only to illegal deforestation, but we know that in some jurisdictions deforestation is not illegal. Will Her Majesty's Government consider extending this to encompass legal deforestation, as argued by many environmental NGOs and mentioned already by several noble Lords?

I would point out that according to the recently published *Rangeland Atlas* from the International Livestock Research Institute, 54% of the world's land area is natural grassland. Consequently, there is no global excuse for destroying forest to create artificial grassland. The Bill requires suppliers of forest risk commodities to carry out due diligence on such commodities. My final questions to the Minister are: will he assure the House that beef will be included as a forest risk commodity, and who will ensure that due diligence is exercised by importers of beef? I welcome this Bill and look forward to the Minister responding to my questions, if need be by letter.

4.06 pm

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, I declare an interest as a member of the Green Party since 1988. Our manifestos since that time have included almost every single issue that we have heard about today. There have been some excellent speeches. It seems that is partly because we have waited so long for this Bill. The Minister himself said that it is an important Bill and there has been a lot of anticipation around it; that is absolutely true. There is also the fact that your Lordships' House has a level of expertise on so many diverse issues that will be relevant for the Bill.

During the time that we have waited for the Bill to arrive, there has been a huge strength of feeling among your Lordships about our natural environment and how to preserve it. That strength of feeling has translated into action: we have made legislative changes, for example, to what are now the Agriculture Act, the Fisheries Act and the EU withdrawal Acts. However, that strength of feeling and action have been hampered by the Government because we have had repeated assertions and promises that whatever we brought up was not appropriate for a particular Bill but would be appropriate for the Environment Bill. Although the Minister was not one of the Ministers making those promises, we will of course hold the Government to account for them—and sadly, he is going to be in the firing line. All these issues, whether about water, air pollution, forestry, biodiversity or farming, have been saved up for this Bill. I can imagine that there are going to be a lot of amendments. Quite honestly, I am excited about that and looking forward to it.

[Baroness Jones of Moulsecoomb]

I am not going to argue that we have an environmental or ecological crisis, or a nature or planetary crisis, because for me those things are absolutely self-evident. What we have is a political crisis. We have a Government who simply do not want to enable us to do our job. The noble Baroness, Lady Young of Old Scone, had it absolutely right: if the Government want a safe and fast passage for the Bill, the best thing would be to accept some of the superb amendments that are going to come from your Lordships. Many more amendments are required if we are to face up to the scale of the damage that is happening to our planet, and to the human race.

The Bill has some ambition but falls far short of what is needed, not least because its fundamental mechanics are hooked on a duty for Ministers to merely have due regard to the environmental policy statements. This creates a very weak foundation that can be overridden by Ministers far too easily. In talking about the office for environmental protection the noble Baroness, Lady Boycott, and the right reverend Prelate the Bishop of Oxford cited a lack of independence. That would actually make the OEP dysfunctional, even pointless, so that office really has to be bolstered by some good amendments.

Then there are the concerns raised by the Bingham Centre for the Rule of Law. Many more noble and learned Lords able to articulate those issues will speak later in the debate, but the point is quite simple. The Government are creating a new system of environmental law that is almost undeserving of being called law because it is so full of loopholes and get-out clauses and allows unlawful acts to carry on unimpeded.

The Greens in your Lordships' House will be incredibly helpful during the passage of the Bill; we will try to help the Government improve it as much as we can. However, none of this is from the Government themselves. They have promised to leave the environment in a better condition than we inherited it, and the Bill will not do that. The noble Lord, Lord Khan, described it as a step backwards, but in some places it is a full retreat. It is therefore incumbent on your Lordships in our House that we defeat the Government vigorously and repeatedly during the coming stages of the Bill. We have to do it for our own well-being but also for our children and grandchildren—and for the humans and species who will inherit the earth long after we have gone.

The noble Duke, the Duke of Montrose, talked about unpredictable nature. We have to be absolutely sure that what we are doing is the safest way forward. I believe that, although the Minister is very committed to the environmental agenda, the Government are not. They simply do not understand that the environment encompasses everything. It is not an issue on its own; it encompasses the economy, transport, education and social well-being. It is absolutely everything, and the Bill is our one opportunity to get it right.

4.11 pm

Lord Randall of Uxbridge (Con) [V]: My Lords, I declare my environmental and conservation interests as set out in the register. It is a delight to be taking part in this Second Reading today, so ably and passionately introduced by my noble friend the Minister. It is not just because I know that the knowledge, expertise and commitment to our precious environment in this House will make this a debate that will match the Government's enthusiasm and commitment to legislate on this issue, but because I was privileged to be present at the birth of the Environment Bill before it was officially announced by Prime Minister Theresa May. Indeed, her foresight in initiating the Bill cannot be understated. Of course, it has been a long time coming as a result of both our leaving the EU and the political impasse that followed, which stagnated our legislative programme. But then, just as things started off again, the world was plunged into the Covid pandemic.

Interestingly, however, two things have come out directly from those delays. First, I have to say that the present Administration have improved the Bill significantly. Secondly, I believe that the pandemic has made us all more aware and more protective of our precious environment. There are of course elements of the Bill that I and many others will want to see strengthened and aspects added to—we have heard about many of them so far and will hear more. However, this should not deflect us from welcoming this much-anticipated and ground-breaking legislation.

The inclusion of the state of nature target has been most welcome although, as always, I shall want to see the details before I can give my 100% support to that aspect. Targets are one thing but only if they are ambitious enough to create meaningful action to achieve them. I welcome the targets in the other areas. I would like to see more ambition around air, water and soil quality, which I am sure we all acknowledge are at the heart of a healthy environment.

The measures with regard to water quality are, as I say, welcome but must go further. I am appalled by the current state of many of our rivers and streams, including those jewels in our riparian crown, the chalk streams. I echo the comments of my noble friend Lord Cameron of Dillington about sewage being discharged into our waterways. It is a national disgrace and we cannot sit idly by. I urge Her Majesty's Government to give real increased resources to our enforcement agencies to reverse this situation.

Speaking of enforcement, as others have said —I am sure that others will follow—the office for environmental protection must be given genuine independent status if it is to achieve what we all hope it will, although I have to say that I have a lot more faith in Dame Glenys Stacey than some other noble Lords apparently have. I think she will do an excellent, independent job.

It is probably useful that we have an advisory time limit on the length of contributions today as there is so much in the Bill that I would like to discuss. However, I will just mention a few more points. The ideal of net gain on planning is admirable but it must apply to major infrastructure projects if it is to have meaning. There will be ample opportunity for me to speak about the environmental damages caused by HS2 at further stages of the Bill. However, noble Lords might be interested to hear that only last week, despite rather complacent answers from both HS2 and, indeed, the Environment Agency, it has now been acknowledged that there is a real risk of contamination

to the drinking water at various locations along the route, including in Uxbridge and elsewhere in the London Borough of Hillingdon. That has emerged thanks only to the dogged campaigning of Sarah Green, one of my former constituents.

That issue raises something we should all be aware of. Sometimes, projects or schemes are put forward as environmentally friendly and are in most cases genuinely thought to be so, but end up being harmful to the environment. Biomass is one such area that must be looked at closely, especially as it receives huge subsidies from the taxpayer. That industry's potential for deforestation brings me neatly on to the provisions in the Bill for the use of forest risk commodities in commercial activity. As many have said, this is a welcome step in the right direction, but I fear that it also has serious weaknesses around the question of illegality and may even convince some Governments to make more deforestation legal. I will return to that at later stages.

Planting more trees of the correct sort and in the right places is admirable, but we should not ignore the immense carbon storage potential of wetlands and grasslands. We should not just be ambitious about protecting what we have but equally ambitious about creating new habitats. I commend the Wildfowl and Wetlands Trust's "A Blue Recovery" to my noble friend and all those hard-working officials working on the Bill.

The overuse of pesticides is not only a danger to the whole fabric of our natural world but directly a threat to human health. I think my noble friend can look forward to some amendments on that issue too.

Finally, we have waited far too long for the introduction of a meaningful deposit return scheme. We must have a scheme that is the same throughout the United Kingdom and it should cover as many items as possible.

Although I have teased with promises of amendments to come, I will be trying to practise a certain degree of self-restraint as, above all, I want this important Bill to become law in the best state possible but without too much further delay. I thank my noble friend and his officials for discussing with me and many others across the House to try to sort out issues beforehand. I sincerely believe that the Bill could not be in better hands in this House and I hope that other departments will be as understanding on forthcoming issues around planning, transport and energy, which could derail the Government's sincere and good environmental credentials, demonstrated so admirably by my noble friend the Minister. Indeed, I sincerely believe that the Prime Minister shares those environmental desires. However, I would mention the proposals to develop—or rather destroy—Swanscombe, and, as mentioned by the noble Baroness, Lady Boycott, and the noble Earl, Lord Lytton, the threat to the area adjacent to that standard bearer for rewilding, the Knepp estate, from housing developments.

Let us get on with this very important Bill. Our natural world cannot wait any longer, but there is much useful work for us to do first.

4.18 pm

Lord Whitty (Lab) [V]: [*Inaudible*]—it has been a long time getting here and we should all welcome it. That is not to say that I or this House will welcome the Bill in all its aspects; indeed, many have already been touched on. I shall probably be following some amendments on air quality, pesticides—as mentioned by the noble Lord, Lord Randall, just now—and various aspects of water quality and the whole regime governing water and our natural waterways. During the subsequent process of the Bill, I shall also touch on issues arising from the interface between it and the Agriculture Act. I make no apology for returning to the issue to which so many noble Lords have already spoken: the central problem of the structure and the authority of the office for environmental protection and the powers given—or not given—to it by the Bill.

The switch from a largely European-determined framework of environmental legislation was never going to be an easy one. The Bill makes a bit of a stab at it but gets some fundamental things wrong. The Bill requires serious modification before we get back to a pre-Brexit situation. This House can improve it in that respect—it is good at scrutiny and we are required to be at our best as we go through the Bill clause by clause—but, like the noble Baroness, Lady Jones, and my noble friend Lady Young, I have heard some rather disturbing rumours. I am apprehensive about the siren voices that are coming, which say that the Government want to see this Bill through as rapidly as possible, that they do not want the Lords to hold it up, that they are looking for a minimum number of amendments and that they are not prepared to compromise. I do not associate the Minister or the noble Baroness, Lady Bloomfield, with these comments, but they do come from sources pretty close to the Government. I hope that the Minister can dissuade his colleagues from taking a negative or defensive attitude during the course of our proceedings. This Bill can become a better Bill and it can deliver a better environment, but that requires us to be allowed to scrutinise it and amend it properly.

In essence, the problem with the office for environmental protection is this: in our recent European past, the European Commission could ultimately strike down decisions or failures of any public body across Europe to act in accordance with European law, and could also require pretty substantial reparations—I know for a fact that Permanent Secretaries would on occasion quake in their shoes when they were told that the Commission was on their case—but that is lacking in the tone of this Bill. Like others, I was often critical of the Commission, its cumbersome methods and its very indirect approach but, at the end of the day, it had the power to ensure that even the most powerful public authorities and the most powerful private sector interests obeyed the diktats of European legislation and the principles that were laid down in that legislation.

However, the OEP, in the form presented here, falls well short of that. That is no criticism of the new chair or anyone who is likely to serve on it but, for example, taxation and public spending are excluded from its purview, its relationship with the Climate Change Committee is obscure and its powers to hold individual public authorities to account are limited. In effect, the powers are limited to the new process of an environmental review—a process that is still pretty obscure but clearly

[LORD WHITTY]
is not directly enforceable since its conclusions do not have the force of law and the courts are not obliged to uphold them. The reality is that, as set out in this Bill, the OEP is not fit for purpose. It is the job of the House of Lords to change that.

4.23 pm

Lord Redesdale (LD): My Lords, it is always a pleasure to follow the noble Lord, Lord Whitty. He has raised some of the issues that are close to people's hearts—especially whether the OEP will have the teeth that it needs. I also raise the issue that the Environment Agency has been cut to the bone so savagely that the idea that it will be able to enforce many of the measures is unlikely, which is a failing of many of the regulators at the moment.

This Bill is obviously a cornucopia. It has many good things coming out of it, but I raise one issue: the omission of heritage. This means that, under the Bill, monitoring and reporting and future environmental improvement plans would not be required to cover the historic features and structures in our landscape, which are inseparable from the natural world. Excluding them is to the detriment of both elements of our environment. It is also a particular concern in relation to the funding of heritage assets. We have lost half of our traditional farm buildings. Hundreds of thousands more are in decay, and almost half of all scheduled monuments are under threat, as are stone walls, parklands and historic field systems. As the 25-year environment plan says,

"our failure to understand the full value of …the environment and cultural heritage has seen us make poor choices. We can change that".

Goal 6 of the current 25-year plan is

"enhanced beauty, heritage and engagement"

with the natural environment.

Similarly, the Agriculture Bill approaches the funding of all parts of the environment—natural and historic—on an equal footing but, in complete contrast, the Environment Bill does not follow this through. It ignores the 25-year environment plan's lead. It excludes most heritage from its definition of "environment", meaning that environmental planning would not need to take the holistic approach that is so effective in the current plan. This has implications for future heritage funding and the connections to the Agriculture Bill, as well as, in terms of data, annual reporting requirements for the Secretary of State and the office for environmental protection. It would not be difficult to reinsert "heritage" into the Bill. Obviously, the Defra officials will fight tooth and nail to stop any new elements being brought in, but it does not move very far from the present 25-year environment plan, which was of course brought in by the present Government.

I must declare an interest, having recently received a grant to restore an old stable block—a historic building that is over 200 years old. Since this was done with a grant, ensuring that the environmental aspects are adhered to, it now has house martins, swallows, greenfinches and even a red-squirrel feeder. I very much hope to talk to the Minister about his plans for the protection of red squirrels, mostly by the slaughter or contraception of grey squirrels. I ran a campaign a number of years ago in which we culled 27,000 grey squirrels in Northumberland to protect red squirrels. We sold them, and many were eaten in London restaurants.

The issue of water is covered in the Bill but there is a major omission in it as it is set out, in that it discusses water abstraction but not water use. In the water Bill, there is a specific duty for Ofwat to look at resilience, including water efficiency. I must declare an interest as CEO of the Water Retail Company, which works in the non-household sector. We set it up in the hope of selling water to people specifically on the water efficiency measures that we would produce. However, we have had no customers who actually look at water efficiency, and it has been a major failing that I cannot think of any examples, in any of the water contracts undertaken with all water retailers, of water efficiency being taken into account. As we are looking at running out of water in London in the next few years, the idea that we are not pushing water efficiency to the maximum extent seems short-sighted; also, of course, the more we use, the more we need to extract. I very much hope that the Government will look at including an element of water efficiency or making some provision for water efficiency. It is an area that should be covered by Ofwat, but Ofwat has failed to push this through as an element of its duties.

In such a short time there is little opportunity to raise other issues. However, one area that will need to be looked at carefully—and funded—is tree planting. I am looking to plant quite a substantial area. However, schemes that have gone before worry me. Farmers are paid for the first five years to plant trees and establish woodlands, but after that there is no ongoing support. We will end up with the situation we had with hedgerows, where people planted hedgerows, only for them to be grubbed up a few years later and not kept going. There is an opportunity to work with the private sector on carbon management to take this forward and I hope very much that this can be explored further in the Bill.

4.30 pm

The Earl of Sandwich (CB) [V]: My Lords, the Bill is urgent and long delayed, so we must not waste time deliberating on it at length. It has been well scrutinised, but there are a number of points that the Commons have missed. My own interest is like that of most people: to prevent damage to the planet, especially to the least developed countries which have been hit hardest by climate change. However, I am also a member of the NFU and keen to introduce ELMS to west Dorset and to recommend any legislation that helps farmers adapt further to biodiversity and more sustainable land management.

It is not easy for farmers because there is understandable concern that ELMS will present considerable risks. While they are being offered a range of environmental choices to suit everyone, they fear they will lose their sense of security in the present landscape which provides the nation's regular food supplies and the dependable regular income which goes with that. These fears are being amplified by the challenge of a whole raft of new trade deals. I realise that this issue came up in the Agriculture Bill but it is highly relevant to this one as well.

I suffer from a lung condition and am therefore acutely conscious of air pollution in London. Of course, there are cities around the world that are more extreme examples. But as the noble Lord, Lord Khan, said earlier, we in the UK still have to come up to WHO targets or guidelines if we are to prevent thousands of deaths. We need a better answer than the one given by the Minister, Rebecca Pow, in the Commons, which was basically to tighten local regulations and report and review the position annually.

The Government are trebling their tree-planting targets in England under the Trees Action Plan. That is fine, but this Bill talks about less deforestation, which means that forestry must surely be tackled much more urgently at the international and G20 level. The noble Lord, Lord Trees, made some vital points about pasture and grassland. Any sales here in the UK from illegal deforestation in the Amazon must be stopped, and forest clearance for food production must be slowed down, perhaps via shareholders of companies such as Cargill, JBS, McDonald's, Burger King, Tesco and Unilever, as well as through pressure on Brazil from the G20 and the BRIC countries. JBS, aside from a massive cyberattack, is also the main target of Brazilian activists concerned about the overconsumption of meat and the destruction of the rainforest. Organisations such as Share Action in the UK which campaign on ethical investments are having a lot more impact these days on corporations and supermarket chains.

Most of us have watched David Attenborough and "Springwatch" or listened to farming programmes. We all know in principle that we need to halt and reverse the decline in habitats and species, but that is going to require a much more radical advance in public awareness and education for us to act on this as individuals. As the noble Baroness, Lady Parminter, said, we need a new vocabulary. I hope that I have finally reversed my earlier indifference to nature and biodiversity. I now confess that until recently, I did not spend one moment bewailing the loss of bumblebees, but now under the scrutiny of wife and family, I have begun to recognise the southern marsh orchid and all the species that I had dismissed as dandelions. I am learning to respect all the benefits of rewilding and the vital role of the beaver in flood control, which are recognised in the Bill.

Our oceans should be in the Bill. They need much better protection. The Benyon review has shown that the proposed highly protected marine areas must be strengthened. The HPMAs need careful designation, management, monitoring and enforcement, along with the funding that all of this requires. The Government will just have to stand up to the fishing industry, which is bound to suffer in the short term. Like the noble Earl, Lord Lytton, I would certainly support any amendment to further reduce plastic in the oceans and clean up our rivers and canals. I am very concerned about the depleted number of fish, which means that we will have to avoid overconsumption or there will not be any fish to consume.

The Bill deserves to pass. We can always have a second Bill, but we need to get on with this one because, as others have said, it is urgent. It has already been scrutinised at length by the Commons and in various Select Committees, including some in this House, such as the Delegated Powers and Regulatory Reform Committee. I sincerely hope that noble Lords will be more restrained than usual in seeking to amend it further.

Finally, I look forward to hearing the right reverend Prelate the Bishop of Salisbury and thank him sincerely for all the work that he has done in Parliament, including his support for South Sudan and Sudan, which are of special concern to his diocese.

4.36 pm

The Earl of Shrewsbury (Con): My Lords, I declare an interest as a member of the GWCT and the NFU. I will highlight two issues that are of great concern to not only rural areas but urban conurbations. Both of them are a complete disgrace which must be dealt with by Her Majesty's Government without further delay. This Bill may well provide the vehicle to tackle these problems.

The first is the discharge of both treated and untreated sewage into our rivers. The Environment Agency's own figures reveal that untreated sewage, including human waste, wet wipes and other particles, was released into waterways for in excess of 3 million hours in 2020, on over 400,000 occasions. Data on 10 water companies in England and Wales assembled by the BBC's "Panorama" programme through environmental information requests suggests that seven out of 10 of those water companies had treatment works that were breaching their EA permits by dumping sewage before they had treated the specified volumes. One of the worst offenders was Welsh Water. In December last year, its Aberbaiden plant illegally dumped untreated sewage into the River Usk on 12 consecutive days. For pity's sake, the Usk is a SSSI and an area of special conservation. It is the home of a very special and rare fish: the greater shad. If you go online to the Rivers Trust site, you will see a map of where water companies have released treated sewage and where overflows of untreated sewage have been sent into rivers. The damage being done to our waterways and the flora and fauna they support, not to mention humans such as canoeists, swimmers and the like, is irreparable unless we act now.

Thames Water is another shocker in this regard. In a statement it said:

> "Putting untreated sewage into rivers is unacceptable to us, our customers and the environment, even when legally permitted"—

well, stop doing it. The company goes on to say:

> "We absolutely want to go further, invest more, and play our part in helping the environment to thrive."

That is all well and good in theory, but my feeling is that it is going to take strong action from the Government to make it happen. I have seen reports which say that the Government will bring measures forward, but when and how strong will their actions be? Clause 83 allows the Secretary of State to amend or modify water quality legislation, so let us have some government amendments to give that some real muscle.

On water abstraction, the advice I have received from the GWCT is really sensible. We need to achieve water-efficiency improvements through the harvesting and storage of rainwater from new developments. Hard surfaces in the built environment contribute to

[The Earl of Shrewsbury]
flooding, while new developments put pressure on already over-abstracted water bodies. Gathering, storing and utilising would reduce both these problems and current planning attitudes to on-farm storage need to be reconsidered.

I turn to the ever-increasing scourge of fly-tipping and littering in our countryside and urban areas. Nowhere is safe from the criminals and vandals who carry out these acts. Previous actions by the Government to try to tackle these problems would appear to have achieved little. I understand from the NFU that fly-tipping in rural areas is becoming much worse. Only last week, I had an email from a gentleman who had just returned to the UK after many years of working in Africa and Australia. He told me that he was quite disgusted by the state of dumped filth in our towns and countryside, worse than anywhere he has been. What sort of advertisement is that for our tourist industry, which is vital to putting the economy back on its feet?

Under whose remit does enforcement fall? In the case of local government, is it environmental health at district council level? It will be under severe staffing pressure, as are most local government departments, and I doubt whether it has much experience of case-building or enforcing fixed-penalty notices. Does it have the experience or back-up to visit and make inquiries in an area where it is likely to feel uncomfortable and intimidated? It might not have any powers to investigate, in any case. It is not a police priority, but it could be made so by the Home Secretary or individual police and crime commissioners.

Without a doubt, strong deterrent powers would assist. The ability to seize and destroy a vehicle used in fly-tipping, whoever it was owned by, would help. Make the polluter pay for the clear-up. Why should landowners suffer the costs of cleaning fly-tips from their land when it is no fault of theirs? There needs to be a duty on a person whose personal rubbish is in the fly-tip to provide the local authority with the name and company of whoever disposed of their rubbish, failing which the authorities should claim the full cost of clearance and disposal against them. The mantra we are given every day without fail is of the need to improve and clean up our environment. This welcome Bill provides that opportunity and I give it my support.

4.41 pm

Lord Anderson of Ipswich (CB): Many noble Lords, including my noble friends Lord Cameron of Dillington and Lady Boycott, have already spoken of the limited independence of the OEP, citing issues of funding and the process for future appointments. The Defra family, as it has been called, is certainly a close one. What stands out for me is Defra's power in Clause 24 to issue guidance to the OEP on how the OEP should enforce environmental law against Defra and other public authorities. As with other government amendments introduced in the Commons—I will come back to those—it is hard to avoid the sense of second thoughts being had and wings being clipped.

I will focus on a more technical but equally important issue: the enforcement powers of the OEP in Clauses 30 to 40 of the Bill. I venture to do so based on some experience of appearing in English and European courts for environmental activists, for Defra and, I admit with trepidation to the Minister, most recently for Heathrow Airport. As currently written, the new remedies risk being less effective than what we had, imperfect though the EU's procedures were, and will certainly be less effective than they could or ought to be.

The investigatory stage will be long. Once the internal processes of the public authority have been exhausted, the OEP may conduct an investigation, conclude that there has been a serious failure to comply with environmental law and issue a decision notice, which may include non-binding recommendations. There may be cases that, given good will on all sides, lead to useful results, but they will not be the hardest cases—those in which a public authority has taken a decision that is thought to contravene environmental law. A recommendation from the OEP can neither undo a decision once taken nor require it to be revisited because of the well-established principle that the decision of a public authority affecting the rights of others cannot be altered or withdrawn—even if the decision-maker wanted it to be—in the absence of an express statutory power or the order of a court. Of course, the OEP, resources permitting, can apply to a court for an environmental review, but that procedure is itself fatally limited for two interlocking reasons.

First, it cannot even be invoked until the lengthy prelude has been completed, by which time the action complained of is likely to be well in the past. An investigation stage that cannot deal with unlawful decisions must be endured before the court that can deal with them is brought in, rendering the investigation not only pointless but counterproductive. I hope that the Minister, to whom I am grateful for the conversations that he mentioned—I think we have another one tomorrow—will consider introducing a shortcut procedure for urgent cases.

Secondly, the remedies that the court can grant on environmental review are remarkably restrictive. I do not mean just the absence of an EU-style power to fine, which, in my not-very-glamorous experience of defending against the European Commission in wastewater cases, was a background factor that operated keenly on the mind of the Government. I mean Clause 37(8), already referred to by the noble Lord, Lord Oates, which allows a decision of a public authority to be quashed by the court only if it

"would not … be detrimental to good administration"

and

"would not … be likely to cause substantial hardship to, or substantially prejudice the rights of, any person".

This looks a bit like a prototype for the alarming proposal currently being consulted on by the Ministry of Justice to introduce a statutory presumption that the quashing remedy in administrative law should operate only with prospective effect. As with that proposal, Clause 37(8) will tend to leave unlawful decisions undisturbed, remove or reduce the incentive to challenge unlawful decisions and elevate private and bureaucratic interests over public interests—that is, the interest in a clean environment and, as the Bingham Centre explained in its briefing for this debate, the rule of law.

Finally, given the severe limitations on environmental review, much weight will rest on judicial review. I know that the Minister shares my admiration for James Thornton and his organisation ClientEarth, which has enforced environmental standards through the courts in a number of countries—including here, where it successfully held the Government to account for their failure to require action from 45 local authorities with illegal levels of air pollution. I would be grateful if the Minister could answer two questions. First, why was this Bill amended in the Commons—I do not for a moment suggest the initiative was his—to limit the OEP's power to bring judicial review proceedings to urgent cases only? Secondly, can he undertake that the prolonged and, as I have explained, largely toothless processes of OEP investigation and environmental review will not be advanced by Defra in the courts as alternative remedies that could justify the refusal to individuals of permission to apply for judicial review?

There is much that is sound, even admirable, in this Bill, but aspirations are little use without the ability to ensure that they are realised. I am reminded of the words of our last Advocate-General in the European court, Eleanor Sharpston, who once wrote that German environmental law, which looked good but was hard to enforce in the courts, was like

"a Ferrari with its doors locked shut".

As the Prime Minister said to Tom McTague of *The Atlantic* in a piece published this morning:

"People live by narrative … Human beings are creatures of the imagination."

Those are perceptive words, and the vision of a powerful green watchdog holding the Government fearlessly to account makes for a good narrative. However, to usher into law a Potemkin watchdog and judicial discretions that are unnecessarily constrained would be a dereliction of our duty. Imagination must be backed up by reality, and this House can—and, I hope, will—help to achieve that.

4.47 pm

Lord Wigley (PC) [V]: My Lords, I am delighted to follow the noble Lord, Lord Anderson, who raised important issues. I draw attention to my registered interests.

At Second Reading in another place, Labour's shadow Minister described this Bill as "okay", as did the noble Baroness, Lady Young, today—faint praise but rightly so since, although the Bill has worthy aims, it falls short on many counts, as the noble Baroness, Lady Jones, mentioned. Some of these may yet be addressed but, as it stands, the Bill reflects many missed opportunities.

Back in the 1960s, before we joined the European Union, Britain was regarded as the dirty man of Europe. Our polluted rivers, smog-filled air, filthy beaches and the appalling condition of many fast-food outlets reflected atrocious environmental standards. It was only following the application of European regulations on these matters that things improved significantly. Today, 80% of our environmental law comes from Europe. Now that we have left the EU, I shudder to think that we could face regression in such matters. The Bill is needed to replace the framework provided by the European Union with a UK framework. That obviously makes every good sense but, as always, the devil is in the detail.

The Bill fails to engage with the need to reduce Britain's global footprint systematically, as a cornerstone of the UK's environmental strategy. My fear is that the proposed OEP will not be truly independent and that the regulator will not be at arm's length from government, as highlighted by the noble Lords, Lord Cameron and Lord Whitty, and the noble Baroness, Lady Boycott. There are no meaningful targets in the Bill, no strategy to counter cataclysmic threats of climate change and no guarantee against regression.

As has just been mentioned, the Bingham Centre has drawn attention to a fundamental deficiency in the new principle being introduced in the Bill for a breach of its provisions; namely, the statement of non-compliance. That does nothing to reverse the validity of the unlawful conduct and we must certainly address this issue.

Important challenges are underplayed in the Bill, such as the marine environment and the urgent need to mitigate inland flood dangers. I look forward to the promised government amendment. The Bill as it stands fails to deal adequately with airborne pollution, which is currently running at 10 times the EU safety level, with particulates killing more than 36,000 people in Britain each year. There is no real attempt to tackle plastic waste in all its forms. The Local Government Association makes the important point that while it fully supports its role in maximising the recycling of waste, the cost should rightly revert to the creators of that waste, but the Bill fails on that account too. There is a massive disparity within these islands on the recycling of waste. The figures speak for themselves: the recycling rate for local authority municipal waste in Wales now stands at over 64%—the third highest in Europe. In England, the figure remains stubbornly low. However, we in Wales also have our problems, such as the release of effluent into rivers, as the noble Earl, Lord Shrewsbury, mentioned a moment ago.

The subject matters covered by the Bill are largely devolved to Wales and Scotland, as is responsibility for associated portfolios which impact on environmental issues, such as agriculture, roads, planning, water resources and healthcare. In these circumstances, I can assume only that the workings of the Act in Wales and Scotland will be by the consent and sometimes through the agency of the Governments of Wales and Scotland and that in devolved matters covered by the Bill, the devolved legislatures will be able to amend legislation as they see fit. In Committee in the Commons, Deidre Brock MP proposed an amendment requiring that when the OEP acts in Scotland it can do so only with the consent of Scottish Ministers. The Minister, Rebecca Pow MP, responded that the OEP had been given a duty to consult devolved Governments on matters regarded as being of general UK applicability, including water. If the OEP is going to meddle with matters relating to water in Wales, it must do so only with the express consent of the Welsh Parliament. I noted the Minister's commitment this afternoon to introduce amendments requested by Senedd Cymru and I hope they cover this most sensitive of matters.

[Lord Wigley]

There is one final point which I ask noble Lords to consider. The impact of global warming would devastate our grandchildren's generation and destroy the world which we have been so profligate in failing to safeguard for future generations. How do we encourage young people to be unremittingly determined to address this issue without themselves becoming overwhelmed by the enormity of its consequences? I well remember that when I was a youngster one of the issues that worried us was nuclear conflagration. It terrified us to the point of neurosis. I am aware that many youngsters today are petrified that life on our planet could be snuffed out within two generations. In giving this subject overriding priority, we must harness their energy in a way that does not harm them. We must not sweep the issue under the carpet but empower members of the younger generation and give them agency in these matters so that they feel that their voices make a positive difference. The Bill gives an opportunity to do just that, if it is significantly strengthened, and this approach should surely be central to our thinking.

4.54 pm

Lord Blencathra (Con): My Lords, I declare my environmental interests as set out in the register. I begin by extending a warm welcome to the latest Defra Minister, my noble friend Lord Benyon. My noble friend Lord Gardiner was an excellent Minister and has been replaced by an equally excellent Minister. Indeed, Defra is an unusual department in that it has been given Ministers who have a long track record of being environmental champions—from my honourable friend Rebecca Pow MP to my noble friends Lord Goldsmith and Lord Benyon. This trend of having Ministers who know their stuff before joining a department might just catch on—I am sure the Whitehall machine will do all it can to put a stop to it.

First, I will comment in my capacity as chair of the Delegated Powers and Regulatory Reform Committee. The committee published its report this morning. Despite the large number of delegations—110 of them—and 17 Henry VIII clauses, 48 of the delegations are affirmative and only two Henry VIII delegations are negative, a point which might reassure my noble friend the Duke of Montrose. This 44% of delegations being affirmatives is probably a record for democratic accountability in any Bill, and if Defra can do it in this landmark legislation, there is no excuse for other government departments cutting out proper parliamentary scrutiny. My committee also praised the delegated powers memorandum, which is a textbook example of its kind. When the Delegated Powers and Regulatory Reform Committee slams into a department for producing a poor, flimsy memorandum, it should look at this Defra memorandum to see how it should be done. I also commend the department on gutting and rewriting the notorious Rivers Authorities and Land Drainage Bill 2019, which we severely criticised and stopped when it arrived in this House. The committee has only five criticisms of the Bill. Perhaps my noble friend the Minister will take them all on board and give the department a 100% record of compliance with our recommendations.

In a personal capacity, I can also praise Defra. I warmly welcome the Bill and support every aspect of it. It has taken some time to get here, but it keeps improving every month, with the splendid addition two weeks ago of a species recovery target for 2030. I am particularly enthused by Part 6, which creates nature recovery strategies and a duty to conserve nature. This is in line with all prime ministerial and ministerial speeches which use the word "nature". The Bill also creates biodiversity registers and biodiversity net gain.

The word "biodiversity" is used more than 140 times in the Bill, but do ordinary people talk about getting closer to biodiversity? Of course not. All the latest studies show that people relate to nature and want to get closer to it. It is a common word that we understand, but biodiversity is perceived by ordinary people to be a more scientific, technical thing of interest only to boffins and specialists. Indeed, I have just looked at an online BBC News article which states that in a recent survey most people thought that "biodiversity" was something to do with washing powder. Experts in this House, government and wildlife NGOs may scoff at that, but getting this law right is about a lot more than using nice, correct legal language.

This Bill is a once-in-a-lifetime chance to engage with people who over the past 15 months have said they want to get out and about and relate more to nature. The Government and everyone talk about nature recovery strategies and nature-based solutions. Two weeks ago, the Secretary of State for Defra went to something called a "nature moment" and announced the nature for climate peatland grant scheme. Since "nature" is the word everyone understands, let us make sure that our legislation speaks in a language that ordinary people use. There is no excuse not to use "nature". The Office of the Parliamentary Counsel's official guide to drafting legislation states in paragraph 1.3.1:

> "Write in modern, standard English using vocabulary which reflects ordinary general usage."

Je repose ma valise—as we say in the pubs in general usage—I rest my case.

I have looked at every usage of "biodiversity" in the Bill, and I conclude that we can safely replace it with "nature" and not lose a single legal or scientific concept. Of course, I exempt international treaties and there may be one or two other exceptions. I invite all noble Lords to look for themselves and then support some exemplar amendments I shall put down—not 141 of them. I shall also table an interpretation clause similar to Clause 43 which will ensure that the word "nature" will not leave any legal gaps or create new legal obligations.

Biodiversity net gain—or nature net gain, as I hope it may be called—is a very important provision. It will bring huge improvements to nature wherever it applies. However, the 10% net gain requirement does not apply everywhere, since the Government have exempted nationally significant infrastructure projects, which we debated in the HS2 phase 2a Bill recently. I shall also table an amendment to apply 10% nature net gain to all these NSIPs. I believe the Government should set an example to private developers, not excuse themselves. No Government in history have sought to do more for

the environment or nature than this one. The pace of announcements on nature and the breadth of what the Government are seeking to achieve with this Bill are breath-taking. I suggest that making nationally significant infrastructure projects comply with the 10% net gain requirement would add even more credibility, both nationally and internationally, to the Government's reputation.

Finally, I welcome the peroration of the noble Lord, Lord Cameron of Dillington. I passionately support everything we can do in this Bill and elsewhere to increase our nature and to make sure that we do not just recover it, but enhance it significantly. However, while doing that, we must never forget that we need food produced in this country from our land. In fact, we need more food produced and less imported which may be from less environmentally sensitive systems.

5 pm

Lord Chidgey (LD): My Lords, the Minister made the point about the magnitude and gravity of the Bill and, in my view, that applies nowhere more specifically than to Part 5, dealing with water. It has become critical that the Environment Agency be given the funds and the freedom to protect our rivers—it needs to be shorn of government directions to put the economy before the environment, and it needs the funding to enforce existing legislation without fear or favour.

In its petition to Parliament to

"Give the Environment Agency the funds and freedom to protect English rivers",

Salmon & Trout Conservation says:

"The Government must reverse years of cuts to Agency budgets, increase charges for polluters, and give the Agency freedom from overly business-friendly Government codes and guidance, so it can pursue and achieve its principal statutory objective to protect and enhance English rivers."

I urge all noble Lords to sign that petition.

The big beasts in this tangled forest of contradiction, indecision and confusion are the privatised water companies long ago sold off to corporate investors who loaded their assets with huge debt, used to distribute as dividends to the shareholders, with not much more than a backward glance at the reinvestment in infrastructure of the industry.

Time moves on, and last week's financial pages were full of rumours of another series of takeovers by the Pennon Group, owners of South West Water among other utilities. The comments of the noble Baroness, Lady Boycott, are valid here in regard to the rivers of southern England and, in particular, the chalk streams in Hampshire. Just days before this debate, a glossy leaflet dropped through my letterbox, supported by Southern Water, urging residents on the edge waters of the Test and the Itchen to save water to prevent overabstraction and save our chalk stream wildlife—undoubtedly a very worthy ambition, but with no mention of increasing efforts to reduce leakage in the water supply system or of replacing worn-out pipes and preventing water-main bursts. Yet as the noble Earl, Lord Shrewsbury, pointed out, national statistics show that water companies apparently lose something like 3,000 million litres of water through leakages every day, and suffer 47,000 pipe bursts every year. Southern Water alone apparently suffers a break in each and every mile of its pipe network each and every year.

The outcome of inadequate legislation, poor enforcement and minimal investment has been a relentless decline in the health of our chalk streams and rivers and their wildlife for decades. I have lived beside the headwaters of the River Itchen for over half a century and I can bear witness to this remorseless decline. Scientific evidence from the river bed in the form of kick samples of Gammarus, the shrimp-like invertebrate at the bottom of the food chain, shows their concentration to be between 200 and as low as 70 per sample by the Itchen Valley villages. A good but not unremarkable total would have been more than 4,000 per sample.

About 700 years ago, Bishop de Lucy had a weir constructed to carry the road to Basingstoke out of Alresford over the Alre and the Itchen headwaters. Behind the weir, the Alresford Pond grew to teem with fish and eels to the benefit of town and church. Today, the pond is an SSSI, but over the last 30 years the Environment Agency has allowed it to become polluted by uncontrolled industrial agricultural processing, oversilted and virtually dead.

The following actions should be taken. None of them is a new proposal and most have been urged on the Environment Agency, Ministers, Ofwat and others for decades. They are not comprehensive; they are just those needed urgently. To ensure the sustainable abstraction stressed by the Minister it should become unlawful to abstract water from the aquifer or the watercourse and return it in a poorer state than when it was abstracted—a clear and simply understood and publicly supported measure. Any business abstracting or discharging through septic tanks or otherwise should have to meet the cost of monitoring the water quality above their abstraction point and below the discharge point, strictly at no cost to the public purse.

The Environment Agency should be enabled to direct water companies to install mains drainage generally and particularly in headwater villages, where septic tank systems have been the norm. The ridiculous impasse between the Environment Agency and water companies caused by avoidance of responsibility to regulate new mains drainage must be removed. The current situation leads to villages such as Cheriton, of 1,000 inhabitants and a key headwater to the Itchen, relying solely on septic tanks yet being no more than a stone's throw away from the Alresford sewage works, in operation since 1944. This situation applies to literally thousands of rural homes where there is as yet no mains drainage.

Manufacturers of domestic chemical cleaners, whether of chlorine or similar base, should be obliged to add conspicuous warning labels to their products against their use in houses with septic tanks because of the danger to the aquifer. All septic tank owners should be advised not to use and discharge harmful chemicals that would damage the aquifer. My final point, for the moment at least, is that water companies should be required to install phosphate strippers at sewage works handling discharges from far fewer than the current yardstick of 10,000 inhabitants. Many already do and, as a start, the figure for compulsory and immediate stripping could be reduced to 5,000 inhabitants.

[LORD CHIDGEY]

Finally, I place on record my thanks to the many local residents, riparian owners, action groups and other NGOs that have briefed me with their concerns as the Bill comes through the House of Lords.

5.06 pm

Viscount Colville of Culross (CB): My Lords, I welcome the Bill's quest to ensure that our companies use resources sustainably and limit packaging. Equally significantly it encourages us, the consumers, to become more responsible in recycling and reusing not just plastic but other resources as well. I intend to limit my comments to Part 3, dealing with waste and resources.

Unless we take action to reduce waste now the problem will subsume us all. It is estimated that the amount of plastic entering the oceans will triple by 2040 to become the equivalent of dumping 7 stone of plastic on every yard of coastline around the world. Surveys show that three-quarters of the British public think not enough is being done to stop plastic pollution. Most of us think we are doing our bit to become stewards of the environment. However, so many of us are still resistant to making personal sacrifices of time and money, even if they will benefit the environment.

All of us need a nudge and, in some cases, a big shove from government to make us become more environmentally responsible. The Bill goes a long way to creating that much-needed shove, but it could go even further. I want us to be the most environmentally responsible citizens in the world. I fear that, without rapidly setting targets on waste, making the schemes in Part 3 more urgent and extensive, this country will not achieve that aim. I welcome the initial clauses of the Bill to set targets on waste and resources efficiency, which will be central to the Government's waste strategy. I hope that they will take the opportunity to surpass the EU's proposed targets of halving waste and potential resource consumption by 2030.

I am hopeful that the resource efficiency requirements in the Bill will diminish the use of plastics and generate a more circular economy, but there is too much emphasis on the disposal of plastic rather than reducing its initial use—a move which has been strongly supported in a recent letter signed by businesses ranging from Nestlé to Aldi. It feels ungrateful to say that that will not be enough, but it will not. The World Wildlife Fund warns that our emphasis must be not just on the reduction of plastics but on ensuring that the materials used as substitutes do not go on to create another environmental problem. Environmentalists warn that the substitution of wood and paper for plastic can encourage further deforestation, reduction in biodiversity and chemical waste when it is manufactured. So I will be pushing the Government to extend the single charges scheme for plastics to other environmentally valuable resources. The target must be to drive down our culture of single use across a range of materials.

To support this, emphasis must be put on reuse and refill schemes; after all, most plastic can be recycled a maximum of only six times before it becomes unusable. Across the country, we are seeing exciting refill pilot schemes led by Waitrose, Marks & Spencer and Sainsbury's. They are all developing stores where an increasing range of products can be bought without packaging. Huge consumer brands that have always used packaging as an important marketing tool are coming round to the idea of reusable packaging. Unilever has just created a deodorant holder that can be refilled with deodorant sticks. This is not only environmentally friendly but, from the company's point of view, binds the consumer even more tightly to the brand.

Supermarkets are keeping audits on how much plastic packaging they are using, but they are doing so with different metrics. I urge the Government to consider standardising these measurements so that a true comparison of the plastic packaging being used can be created—useful information for consumers, companies and government alike. The deposit return scheme is central to this reuse programme; it will give a strong nudge to encourage us all to recycle and, we hope, reuse containers. However, I am concerned that the Government are being too limited by covering only small drinks containers. Michael Gove, when Environment Secretary, said that a scheme covering all drinks containers would give consumers the greatest possible incentive to recycle. However, I fear that the Government's new, second consultation on the scope of the DRS has a more limited ambition. There are fears that the Government will introduce a limited scheme, and not until late 2024 at the earliest. Already, the Environmental Audit Committee in the other place has called the delay "unnecessary". As the noble Lord, Lord Randall, said, this should be an area where the Government introduce uniformity across the country. Scotland is already planning an all-inclusive deposit scheme. The UK must move forward together on this. I urge the Government to be more ambitious and speedy in this area.

What brings into sharp focus our inability to use our resources efficiently is the disposal and recycling of our waste. This country exports half its plastic packaging waste, but recycles just a third of that waste. The BBC's "Panorama" showed the horrific scenes of this waste being exported to Turkey where, far from being recycled, it was burned in backyards in the poorer parts of the country. The Turkish Government have now banned UK recycling exports and the Basel convention limits where the trade can go. I welcome the transfrontier shipping clauses in the Bill, which will further limit the export of our waste but, unless we reduce our use of plastics and other materials, and unless we reduce what we throw away, we will need to either continue exporting our waste or double this country's infrastructure for dealing with it.

I applaud the Government for the Bill but, as it passes through its various stages in this House, I hope that the Minister will listen to concerns from millions across this country and be open to amending Part 3 and its schedules. Like most other noble Lords, I hope that, when the Bill leaves this House, it will be at the forefront of legislation to protect the environment and make our economies more sustainable. I want us to be a beacon for the world to emulate.

5.12 pm

The Earl of Caithness (Con): My Lords, I am grateful to my noble friend the Minister for his introduction to this already improved Bill, which I welcome in principle. However, I am not as optimistic as he is that this is the

silver bullet needed to save our natural environment; we have been here many times before with legislation that has been touted as the answer to our problems. The Wildlife and Countryside Act 1981 was enacted to reflect the Bern Convention on the Conservation of European Wildlife and Natural Habitats, and that on the protection of migratory species. I remember my noble friend, the late Lord Bellwin, introducing the Bill on 16 December 1980, nearly 41 years ago, and saying that the Government recognised the

"awakening awareness, both nationally and internationally, of the need for conservation of our wildlife resources".—[*Official Report*, 16/12/1980; col. 983.]

Since then, as your Lordships will know, there have been numerous pieces of additional legislation, including the habitats directive in 1992 and the birds directive in 2009. However, on recent evidence, we have failed miserably to stop the decline in nature and our natural environment; we must ask ourselves why.

Two major contributions to that failure have been the lack of practical wildlife management, which has been overlooked, and the fact that the current rules are often impractical and ineffective. This Bill is just one part of jigsaw legislation and supporting policy statements. Thus, the way this Bill and the Agriculture Act, strategies on tree planting, peatland, food and biodiversity and the industrial strategy work together is key to ensuring that there are no unintended consequences or voids. Looking to the future, the rather feared planning reform Bill will probably undo quite a lot of the good that this Bill will do.

Compliance involves more than just regulation and sanction; it involves understanding motive, incentive, encouragement and soft governance. The latter is part of ELMS, found in the Agriculture Act, while this Bill provides the legal and statutory aspects of environmental governance. As the noble Lord, Lord Whitty, said, the two need to marry to deliver the ambition of a very high take-up of ELMS; but is that enough to achieve an improvement in our environment? I am concerned that the long-term environmental target priority areas in Clause 1 are not fully aligned with the policy ambition

"for significantly improving the natural environment",

given, for example, the goals that the Government have identified in their 25-year environment plan. Just as the Agriculture Act was amended to reflect the value of healthy soil to society, so this Bill needs to address the environmental damage caused by soil loss, such as the impact on riverine and estuarial habitats through sedimentation and eutrophication, flooding due to sediment build-up in watercourses, and loss of organic carbon from the soil bank due to erosion. My noble friend said that he would introduce amendments on this; I will read them with care.

Furthermore, environmental hazard mitigation, such as for the increasingly common and damaging wildfires, is not sufficiently addressed by the priority areas. While I welcome the ambition of setting targets in law to provide a means of holding government to account, these need to be complemented by a robust review framework to provide suitable accountability and ensure that targets are not simply reset as, for example, in the case of the biodiversity 2020 targets. There is justifiable concern that many of the key environmental indicators do not have relevant or robust metrics, a point made by the National Audit Office report, which stated:

"There remains a patchwork of sets of metrics that do not align clearly with government's overall objectives or with each other."

It also said that there are "some important gaps", such as soil health.

It is essential that advice in setting these targets, which will come from those who are independent and have relevant experience, must include practitioners and not just theorists. Like many others, I am concerned that the role and status of the office for environmental protection is much too weak and a significant step back from the situation that we were in as members of the EU. Picking up the point made by the noble Lord, Lord Anderson, has my noble friend seen the evidence from the analysis of the Bill by the Bingham Centre for the Rule of Law and, if so, what is his response?

Another area of concern is waste. Although it is right to improve how we handle it, I will be tabling amendments on trying to reduce the amount we produce in the first place, as prevention is just as important as cure.

In the forthcoming stages, I will focus on trying to ensure that the Bill really will provide adequate—rather than just nominal—protection for plant species and our natural environment, which are at risk.

5.18 pm

Lord Browne of Ladyton (Lab) [V]: My Lords, I draw attention to my entry in the register, in particular my involvement with the BioRISC initiative at St Catharine's College, Cambridge.

The UK has positioned itself as a world leader on environmental issues, and now it must deliver. I welcome the arrival of the Bill, however late, but, like other speakers, I recognise that significant work needs to be done if it is to deliver. Deferring to those with greater knowledge and experience of these matters, I shall restrict my comments to two devolution implications and two other issues that I have raised previously, most recently in the Queen's Speech debate.

On the devolution matters, I have the benefit of an excellent briefing from the Law Society of Scotland, a point to which I shall return. Presently, the Bill's provisions concerning environmental principles extend to England and Wales and apply to England only. Happily, the principles set out in Clause 16 are in line with the guiding principles on the environment set out in Section 13 of the European Union (Continuity) (Scotland) Act 2021, an Act of the Scottish Parliament. The Scottish Act requires reference to the principles themselves, taking account of their interpretation by the Court of Justice of the European Union, whereas, under this Bill, the reference point is the policy statement to be made by the Secretary of State.

Differentiation is a natural consequence of devolution and the extent to which consistency is sought is a political matter. However, coherence in the way principles are understood and applied will be essential in ensuring that international environmental obligations are met. Avoiding disparities is particularly significant given the transboundary effects of environmental impacts, and at all costs we must avoid disparities that encourage

[Lord Browne of Ladyton]

"environmental regulatory tourism". Given the duties imposed on UK Ministers under the Scottish Act, strong collaboration between the UK Government and devolved Administrations on environmental governance is essential. Some coherence will also be of assistance to UK-wide discussions and forums—for example, the Joint Nature Conservation Committee and the REACH regime.

The second issue is the importance of the office for environmental protection working closely alongside environmental governance bodies in the devolved Administrations. Clarification on the reserved functions of UK Ministers relating to Scotland that will be subject to oversight by the OEP is essential. Clause 42(1) provides for a restriction on the OEP in relation to disclosure of information. Clause 42(2)(f) provides an exception for a disclosure

"made to a devolved environmental governance body for purposes connected with the exercise of a devolved environmental governance function".

This exclusion is welcome but insufficient. The Bill should provide for either a wider power to, or an obligation on, the OEP to share information and work with relevant bodies in devolved Administrations where necessary, including provisions for joint investigations to be undertaken by the OEP and one or more environmental governance bodies in the devolved Administrations where appropriate.

The Law Society briefing raises many additional issues—too many to cover in the limited time I have. I am sure it has passed a copy to the Bill team for their consideration. If not, I shall forward mine to the Minister's office. I look forward to seeing the amendments referred to by the Minister in his opening remarks and the extent to which they reflect the issues raised concerning devolution.

Substantial public money has already been wasted through the failure of many agri-environmental schemes because the best available evidence was not appropriately used to inform their design. How do the Government plan to ensure that the proposals for the restoration of peatlands and planting of trees adopt evidence-based principles in planning, execution and monitoring? In the Queens Speech debate, I asked:

"what mechanism will the office for environmental protection deploy to ensure the transparent use of the best available evidence, enabling scrutiny by experts and members of the public, to ensure that taxpayers' money for our environment is spent cost-effectively?"—[*Official Report*, 17/5/21; col. 350.]

I am grateful to the Minister for his answer, which was:

"the Office for Environmental Protection will work closely alongside our world-leading Committee on Climate Change".—[*Official Report*, 17/5/21; col. 426.]

He then thanked it for the guidance it had provided in this regard. I hold the CCC in the highest regard, but I am tempted to ask why the Minister believes that climate experts are the best experts to answer on ecology.

Finally, I turn to an issue that I know the Minister has supported in the past: banning lead ammunition. On 23 March, six years after receipt of the completed report of the Government's own Lead Ammunition Group recommending that lead ammunition be phased out, the Environment Minister Rebecca Pow announced plans to do just that, saying in a Defra press release:

"A large volume of lead ammunition is discharged every year over the countryside, causing harm to the environment, wildlife and people."

Her words accurately summarise the extensive harmful consequences of its use and make a compelling case for action now to protect human and animal health. But, inexplicably, she goes on to announce the commissioning of

"an official review of the evidence to begin"

that day,

"with a public consultation in due course."

The impacts of lead ammunition on wildlife, the environment and human health have been known for years. So, I repeat:

"Given the Government's view that extensive harm is being caused today",

a view shared by many,

"why have they commissioned a further evidence review?"—[*Official Report*, 17/5/21; col. 350.]

I hope that, in winding up the debate, the Minister will have time to respond to the matters I have raised. If not, I hope he will agree to write.

5.24 pm

Lord Krebs (CB) [V]: My Lords, this Bill is both welcomed and long overdue. It could give us the basis for reversing decades of careless mistreatment of our natural environment and the opportunity to enjoy cleaner air and rivers and restore degraded habitats and biodiversity.

As my noble friend Lord Cameron mentioned earlier, in 1973, when we joined the European Union, we were labelled the dirty man of Europe. We have made significant process since then, largely as a result of EU rules and enforcement, but there is still a long way to go. It is said that this Bill will help us go further, but I remain to be convinced. To explain why, I want to focus on biodiversity—or nature, as the noble Lord, Lord Blencathra, prefers to call it.

The UK is one of the most depleted countries in the world in terms of biodiversity. The Natural History Museum has calculated an index of biodiversity intactness. Using this measure of the health of our natural environment, we rank 189th in the world, and we are bottom of the G7 countries. In the past 10 years, 41% of our bird species have decreased and 15% of our wildlife is threatened with extinction. The dreadful state of our nature is at least in part a result of living in a densely populated country in which nearly three-quarters of our land is used for farming or the built environment. We have simply squeezed nature out of its home.

I am therefore very pleased to learn that the Government intend to introduce legally binding targets for restoring biodiversity through this Bill. However, the Government have set targets for halting nature's decline before and failed to meet them. For instance, in 2010 the Government signed up to the so-called Aichi targets under the global convention on diversity. In 2019, the Joint Nature Conservation Committee found that we had made insufficient progress on 14 out

of 19 targets. Furthermore, in 2020 the JNCC reported that only about half the sites of special scientific interest in this country are in favourable condition and that there has been no improvement in this score over the past 15 years. So, forgive me if I sound a bit sceptical, but I would like the Minister to explain why we should believe any new commitments to meet biodiversity targets, given the Government's past record of failure.

At the same time, I hope the Minister can unpack a bit more of the detail. First, will the targets involve halting the decline of particular species, taxonomic groups or habitats, or all three? Secondly, do the Government know what actions they will have to take to restore nature? Many of the initiatives supported under Pillar 2 of the common agricultural policy failed to enhance nature because they were not based on good science—a point just made by the noble Lord, Lord Browne of Ladyton. Will the Government be able to avoid making the same mistakes? Where is the science going to come from?

Thirdly, how will the Government calculate the trade-offs that will inevitably have to be made? Creating more space for nature means less space for human activity, be it space for producing food, building houses, roads or businesses—a point made by my noble friend Lord Cameron of Dillington. Fourthly, and more particularly, proposed new Schedule 7A to the 1990 Act refers to a "biodiversity metric". I hope the Minister can shed light on how this is to be calculated. For example, how many stone-curlews equal one purple emperor?

Last but not least, what the sanctions be if the Government fail to meet their biodiversity targets? We have been told that the new office for environmental protection will hold public authorities, including Ministers, to account. I share the Minister's respect and admiration for the chair, Dame Glenys Stacey. However, as we have heard this afternoon, there is a tide of expert legal opinion that the Bill does not give the OEP sufficient powers or independence to fulfil its role. These points have been eloquently explained by my noble friend Lord Anderson of Ipswich and others. I would also like to acknowledge a meeting I had with the Minister, the noble Lord, Lord Anderson, and Tim Buley QC to discuss these points.

In sum, I like the declared intentions of the Bill. I know the Minister is committed to improving our environment, but there is still a great deal of work to be done to explain how this will be achieved. I look forward to working with him and other noble Lords as we debate and improve this important Bill.

5.29 pm

Baroness Eaton (Con) [V]: My Lords, I declare my interest as a vice-president of the Local Government Association and my husband's forestry interests. A legacy of the Covid-19 pandemic must be that we grasp the opportunity to protect and enhance our natural environment and tackle the climate emergency. I welcome this important piece of legislation as it is vital that we continue to improve air quality, protect against flooding and ensure that our transport, waste and energy policies are environmentally sustainable.

Local government is already prioritising environmental goals, including leading the way towards achieving net-zero carbon emissions, increasingly with ambitious plans to achieve this before the Government's 2050 target. The Bill points to a new environmental relationship between local and national government, with potentially greater responsibility sitting with councils. The impact of this is that councils will have a new environmental improvement role within their localities.

Local government is well placed to take the lead on this agenda, but, to deliver on these ambitious plans, authorities will need to have appropriately skilled staff, which many do not have at present, and be given adequate resources. I would like to see more detail about how certain provisions within the Bill will be implemented and the potential associated new burdens that will be imposed on councils as a result. Will producers be required to pay councils the full net cost of the waste generated by their products? Will councils have the freedom to decide locally on the best system of waste collection? At this stage, it is difficult to predict the impact of the legislation and the costs for local authorities in meeting their new statutory duties. It would be helpful if the Government could confirm that there will be an assessment of how the new duties are operating into the future.

The Bill includes provisions to strengthen and improve the duty on public bodies to conserve and enhance biodiversity, including mandating a biodiversity net gain through the planning system. I support the principle of increasing biodiversity net gain through the planning system, but the Bill currently does not require that biodiversity credits raised from developments be reinvested in the locality. Communities that accept developments in their area should be able to see improved biodiversity. I believe that credits should be retained by local authorities so that funding stays in the area where the development takes place and local people can have a say in how it can be used to improve the natural environment.

There would be a bigger set of opportunities to deliver change if the Environment Bill is properly aligned with the Agriculture Bill and the recently announced planning Bill. Getting land use right is a key factor in protecting nature and meeting net-zero targets. Forestry is a vital component in getting land use right in order to protect nature and meet net-zero targets. The Government recognise that increased tree planting is important. There was a manifesto commitment to increase planting to 30,000 hectares a year in 2025. However, little progress has been made over the past decade: only a few thousand hectares a year have been achieved.

The Environment Bill provides an ideal opportunity to put tree planting on a statutory footing and set a target for England that will drive delivery. The 25-year environment plan, published in 2018, identified the need to plant 7,500 hectares a year. I believe that this should be the target set in the Environment Bill. In order to achieve it, the Government must ensure that the necessary annual grant funding is made available for tree planting. It is vital that the process for approving grant applications, especially for larger areas of planting, is substantially improved. At present, the uncertainty and delay deter many applicants.

[Baroness Eaton]

Aside from areas of ancient woodland, it is important that landowners are able to plant and manage their woodland to release the ongoing income that is required to pay for the management of woodland and support the continued benefits that these woodlands can provide. There needs to be scope to plant a variety of tree species, including conifers, which make up at least 90% of the market demand for wood.

I look forward to working with the Government and noble Lords as the Bill is debated in this House. We need to listen to councils, charities and other partners, which are calling for a holistic approach to tackling the climate emergency across a wide range of legislation and policy decisions.

5.35 pm

Baroness Fox of Buckley (Non-Afl): My Lords, as has become clear from the debates and amendments in the other place, and as is reflected here today, there is potentially a tension at the heart of the Bill and surrounding it. It begs the question: what should society prioritise?

The claim is that the Bill puts nature's recovery at the heart of all policies by creating binding biodiversity targets, backed up by yet another legalistic bureaucratic body to enforce regulations. All this has the potential to mean that environmental rules will rule and act as barriers to other political priorities, such as levelling up and economic development. In my opinion, we, and the Government, need to put a rocket under industrial growth, especially for left-behind areas. This is even more urgent after the havoc wreaked by locking down society in response to Covid. I dislike the slogan, "Build Back Better", and I am even less keen on "build back greener", which is doing the rounds this week, but building is necessary in whatever context, and it is an example of the tensions.

To illustrate these contradictions, look at the way—and how often—it has been argued that the Bill clashes with forthcoming planning legislation. The promise in that legislation to accelerate and boost much-needed mass housebuilding and large infrastructure projects by removing barriers to growth is surely worth cheering. Yet here, and in lobbyists' briefings that we have received, it has been described as an utter disaster for biodiversity that will destroy swathes of the countryside—that is misinformation, by the way. It has been labelled a "dark age of development"—it is a dark age only if you think that the environment should trump citizens.

In some ways, there is a philosophical clash over what economic growth means and what our priorities should be. The Green Alliance, a supergroup of eco-NGOs, which sent us detailed briefings on the Bill and was quoted uncritically here earlier today, complains that UK consumption is now such that UK citizens create a greater carbon footprint in 12 days than citizens in seven other countries have in a year. We are invited to infer that UK consumption is too high, but the issue is that theirs is too low. The tragedy is that those seven nations of non-consumers are not consuming because their countries are in dire poverty, so under-developed that living in hunger and destitution is the norm. Even if that means that you do not emit too much carbon, that is not something that I will celebrate.

I hope that some of the Bill's philosophical tensions can be debated in this Chamber. The problem with having a cross-party consensus on environmental issues is that all the arguments feel like a competition to outgreen one another, with no real challenges. That is not helped by a broader crass demonisation of critics, outside of here, who are called deniers who want to concrete over the countryside. I hope that there will be more nuance, and none of that, in this Chamber.

For example, we need proper debates. We should be debating whether we really should institutionalise the precautionary principle. After all, let us remind ourselves that the EU's rigid adherence to the precautionary principle on vaccines led to fatal delays and a political debacle. Surely we should also debate the dangers of over-rigid targets and bans. Only recently, that much-maligned material, plastic, with the disposability of its products, became not a waste but a lifesaver, in the form of PPE such as gowns and face masks.

One issue that definitely needs to be debated is the plan to force companies to root out illegal deforestation from supply chains. I wonder whether there is a danger that punitive and onerous regulation of UK companies will create hidden victims in the developing world. I am thinking of the many individuals working in commodity supply chains in the developing world, whose livelihoods may be threatened if the complexities of supply chains are ignored in the pursuit of a Westminster-designed topdown eco-agenda. And what about the sovereignty of producer countries? Many of the UK companies affected have tried to remind the Government that we need to remember to respect those countries as partners. They need to be engaged, not imposed on.

The commentary and amendments tabled in the Commons demanding that that part of the Bill be expanded to financial institutions, in an attempt to prevent British banks financing any companies involved in deforestation—that amounted to £900 million last year—seem so hypocritical. I have heard lots of passionate outrage about aid cuts in this House, but surely attempts to curtail productive investment in the name of the environment are far more egregious.

That brings to mind the persuasive arguments outlined in a new pamphlet entitled *Greens: the New Neo-colonialists*, in which I declare an interest, as it was published by the Academy of Ideas, of which I am director. I shall ensure that I send the Minister a copy. I am wary of the rich world continually curtailing the developing world's economic growth under the guise of environmentalism. This is just another example of the dangers of a Bill focusing on preserving the natural environment at the expense of human flourishing and economic growth.

A lot of the material sent by green lobbyists takes a pessimistic, misanthropic and catastrophising tone, implicitly suggesting, with much hyperbole, that human activity on the planet is toxic and responsible for crises, environmental damage and so on. Can we have a bit of perspective and balance as the Bill progresses, and remind ourselves that human activity on the natural planet has not, in the main, been destructive, but has

been hugely creative in overcoming natural limits? It has brought us from the caves to modernity, it has allowed agriculture to feed billions, it has allowed us, the human species, to build productive economies and technological wonders, and it has brought freedom and democracy. That is what allows us the leisure time that will enable us to join the noble Earl, Lord Sandwich, in bumblebee-watching in due course.

5.42 pm

Baroness Greengross (CB) [V]: My Lords, I welcome the Environment Bill, which aims to address one of the greatest policy challenges of our time—that of climate change and the future of our planet. I wish briefly to address two issues today. The first is the role that local authorities should play in addressing this challenge. I declare my interest, as noted in the register, as a vice-president of the Local Government Association. The second issue is longevity and demographic change, and the impact that they will have on our environment. Here I declare my interest as chief executive of the International Longevity Centre-UK.

The Bill takes the important step of establishing the office for environmental protection, which will hold the Government to account on environmental protection. One cannot ignore the fact that much of the work in protecting our environment must be delivered at local community level. We know that many poorer local authorities and parish councils struggle to play their part, because of financial and other resource constraints. As part of the Government's levelling-up agenda, will they consider supporting local authorities to improve things such as local recycling or tree-planting initiatives? Will they consider establishing a community environment fund to support local authorities and parish councils in this way?

Many of us are living longer: according to the ILC-UK, one in three girls born this year will live to 100. Because of this longevity, people's life courses are changing, which impacts on where they live, where and how they work, and how they interact with the natural environment. We also know that—because of immigration, which is essential to our economy and enriches our society, and various other factors—the population of the UK is set to increase by 9.7 million, and will reach 74.3 million by 2039.

In the Civitas report authored in 2020 by the noble Lord, Lord Hodgson of Astley Abbotts, called *Britain's Demographic Challenge*, the noble Lord makes the point that that population increase is equivalent to 3.5 times the population of Greater Manchester, or 1.7 times that of the West Midlands conurbation. If the current distribution of the population continues, the ONS figures suggest that, to house that projected population increase, Norwich and Guildford will have to build about 1.4 houses a day for the next 25 years, Stockton will have to build 1.2 a day, and Dundee will have to build just under one a day.

One of the key focuses in the Bill is water quality, and strengthening the powers of the regulator, Ofwat. As part of this, will the Government consider how the projected population increase will affect the demand for water and put far greater pressure on our environment?

The Bill is welcome, and is an important step in addressing climate change. Most of us accept the scientific advice that the current climate crisis is the result of human activity. Therefore, we as humans cannot ignore the fact that longevity and demographic changes to our population will have a significant impact. We must also ensure that local and central government have the strategies and the resources to address these very important and difficult challenges.

5.47 pm

Viscount Trenchard (Con) [V]: My Lords, I thank my noble friend the Minister for introducing this long-awaited and largely welcome Bill. In general, I welcome it, as it provides a robust framework for environmental governance. I observed its progress through another place, and I particularly agree with the amendments tabled by my honourable friend Sir Charles Walker and my right honourable friend Mr Philip Dunne, especially on the subject of water extraction licences. The guidance for the Bill will now clearly state that licences may be revoked or varied without compensation where unsustainable abstraction has led to low flows causing damage. Provisions on the discharge of sewage into rivers tighten the obligations on sewerage undertakers to prepare coherent drainage and sewerage management plans.

It is right and necessary to tighten the rules on abstraction, but does the Minister agree with the CLA that as farming accounts for only 1% to 2% of total water use, farmers should be exempted from the risk of losing their licences where such removal would have only a limited impact on the environment but a comparatively large impact on their businesses and their food production?

The noble Lord, Lord Moore of Etchingham, writing in the *Daily Telegraph* on Saturday, perceptively pointed out that our attitudes to nature are being kidnapped by the dogma that nature is good and man is bad. The obligations on local authorities to support enhancement of biodiversity, as well as its conservation, are a case in point.

As the noble Lord pointed out, wild boar are already digging up large parts of the countryside, and the return of wolves is touted. Does the Minister consider that Clause 95 confers a general duty on local authorities to support rewilding schemes, and how are they to distinguish between those which should be supported and those which should not?

The desire to restore species which once roamed our countryside is perhaps not dissimilar to a desire to maintain traditional farm buildings, many of which are very attractive, such as ancient tithe barns. They are clearly part of the environment, but because they are manmade, they are not covered by this Bill. I agree with the CLA that heritage, as a key environmental public good listed as part of the 25-year environment plan, should be included in the Bill's definition of the natural environment. Over half of all traditional farm buildings have already been lost, and stone walls and other features should also be included in the Secretary of State's annual reports, and in the monitoring and reporting undertaken by the OEP. If the people's enjoyment of the natural environment is as important

[Viscount Trenchard]
as the natural environment itself, as implied by Clause 1(1) of the Bill, why do the Government not recognise that maintenance of many of our traditional farm buildings is crucial to people's enjoyment of the natural environment? I agree with the noble Baroness, Lady Fox of Buckley, regarding man's positive contribution to the planet.

I welcome the Government's decision to introduce a deposit return scheme for recycling metal, plastic and glass bottles and cans. However, the four large brewers, which hold 88% of the beer market, will absorb the cost within their profit margins, thereby driving smaller challengers and craft beer manufacturers out of the market. It is important that the deposit recovery scheme adopted be completely interoperable with the Scottish one. Can my noble friend confirm that the United Kingdom Internal Market Act provides the necessary powers to ensure this? Does he agree that there is at least a strong case for exempting small breweries producing less than, say, 900,000 pints per year from the new requirements?

As I mentioned in connection with the definition of the natural environment, the CLA argues that traditional farm buildings should be covered by the Bill. Clause 110 seems to suggest that the conservation objectives of conservation covenants can include buildings as well as natural features. Will my noble friend explain how conservation covenants relate to the environmental land management schemes through which it is intended that landowners may recover the significant part of their income under the direct payment scheme, which they start to lose from this year? I look forward to other noble Lords' contributions, and to scrutinising the Bill as it progresses through your Lordships' House.

5.53 pm

Lord Addington (LD): My Lords, with this Bill I feel that we are on round two: we have had the Agriculture Bill, and many themes are coming back to us. Indeed, we are reacting in similar ways. Some of my noble friends might be feeling slightly weak at the thought of that, because it did go on for a while. Certain things have been established: we all want serious solutions, and we do not want our lives messed around too much. I am afraid that it is time to accept that we are going to have to change the way we operate in order to get the best out of this.

We all thought that the new office for environmental protection would be a big beast that would scare everybody into line. Not only are we hearing that its teeth are a little blunter than we thought, but its jaws may not work unless you wind the damn thing up. We must make sure that we have an enforcement process for the new changes, and someone to provide the information we require, which must be both coherent and clear. That is one of the ways in which this will become effective for us all.

Turning to the more niche aspects of the Bill, access to the countryside is a great way to get people to buy in. The Bill says that you "may" be able to take certain steps to ensure that you can enjoy the environment. That is combined with "must" for other things. How do these two combine? For instance, what is the department's attitude to the new office for health promotion, which talks of encouraging physical activity and so on? How is that going to work? Will the two offices work together? The noble Lord, Lord Benyon, is in his place, and it is hard to pick on him about this, but I asked him a question about this issue and his response was that he might have to write to me. Let us see what we can do, and what the connection is. To get people to engage with this and get the best out of it, they must know what they are getting. Are we going to make sure that the countryside is pleasant to be in, and that people will want to be in it? If we are, then public opinion may be rather more on the Government's side when they do things which slightly inconvenience people.

The noble Baroness, Lady Fox, made the fairly valid point, I suppose, that the Government should not let the environment boss them around, because they want progress and growth. But there is only so much progress and growth we can take under the current model. We are going to have very bad water that we cannot drink and that will not sustain life, and soil which does not produce crops of the same volume. We must start addressing this and change the way we behave. Will the Government make sure, as we deal with these issues, that the use of the environment for health and recreational purposes is properly represented? How will that fit into the rest of the model? Regarding the drafting, the "may" and "must" is a variation on "may" and "shall", so maybe that is progress. How will we bring these together and make sure that there is a coherent plan? Are the fishermen, canoeists and walkers going to come in behind the Minister because he is giving them something they want? As things develop, they can be his eyes and ears when it comes to enforcement. Use of land for sports clubs, for example, must come into this as well. How will this all work together?

We should at least get an idea of the Government's thinking as we consider the Bill. Where do we look to find the duty for this department to talk to the Department of Health and Social Care and other departments such as Education? How will that duty be carried forward? If it is not, we will go back into silos that ignore each other until they are dragged, kicking and screaming, into the same room, doing the minimum required before going back to their old ways. That is how bits of government behave when they can. I hope that, as we consider the Bill, we will establish these rules, because, let's face it, round three will be planning, and unless we establish the rules now, that will be much more difficult.

5.58 pm

Lord Vaux of Harrowden (CB) [V]: My Lords, I start by declaring my interests as a farmer in south-west Scotland with forestry interests, as chairman of Fleet District Salmon Fishery Board, and as a director of the Galloway Fisheries Trust.

It is of course welcome that this Bill is finally here. It has taken some time, but there is much to welcome in it. However, it suffers from what seems to be a common feature of most Bills these days: there is limited actual substance. Much of the detail is to be added later by ministerial regulation. What this means, of course, is that the details will not be subject to the

same level of parliamentary scrutiny as they would have been if they had been part of the Bill itself, even if they are subject to the affirmative procedure. This applies to the most fundamental parts of the Bill, such as the environmental targets, environmental improvement plans, the policy statement on environment principles and the strategy of the office for environmental protection. It would have been preferable if at least more of the principles were included in the Bill.

Almost all environmental actions involve trade-offs. Those might be simply financial; for example, the additional costs of more environmentally friendly boilers. They might be economic; for example, an action that adds a cost or regulatory burden to a whole industry. It is possible that an action affects a particular industry in the country so badly that it becomes uncompetitive, and we end up importing from less environmentally conscious countries. In other words, we simply end up exporting the environmental damage. There are many examples of that already. Plastics disposal in Turkey has already been mentioned; ship dismantling in Bangladesh is another example, but there are many more where products are manufactured more cheaply in environmentally less well-regulated countries. As far as I can see, that could happen even between the devolved nations. What happens if the different parts of the UK apply different environmental standards, perhaps exactly for economic advantage? There is also a risk that the interrelationships between the Agriculture Act, the Trade Act and the Bill could create just such a situation for agriculture, as others have mentioned.

The trade-offs can also be purely environmental, where an action intended to improve the environment in one way damages it in another. Let me give a couple of real-life examples. One environmental target, as mentioned by the noble Baroness, Lady Young, is to increase tree planting, which is generally seen to be desirable—and I agree. However, where I live, in south-west Scotland, large-scale conifer planting has led to serious damage to watercourses, to the extent that some are now effectively devoid of life as a result, and a reduction in biodiversity in terms of moorland flora, birds and animals. Another example of an unintended consequence is the Clean Air Act 1968, which mandated higher chimneys for industries burning coal and other fossil fuels to better disperse sulphur dioxide. That improved air quality in urban areas, but it also led to increased acid rain in rural areas and in Scandinavia. The noble Lord, Lord Randall of Uxbridge, mentioned biomass as another potential such example. It is to be hoped that we have learned from those past mistakes, but it would be foolish to imagine that unintended consequences will not occur again.

I am not trying to say that we should not take the necessary environmental actions—quite the opposite: we must take them—but it is important that we look at our plans and targets holistically when creating them. What is the overall impact of our plans? Do targets potentially conflict? There could well be situations where the negative impacts are large enough to make us want at least to amend the targets to achieve our aims less expensively or to mitigate unexpected damage caused. If we do not look at targets and plans holistically, there is a real risk that they will lose the support of the public.

There is little in the Bill to achieve that. Part 1 describes the requirements for the plans and targets, but there is no requirement to consider the costs or the economic or environmental impact when setting them. While there is a power in Clause 3 to revoke or lower a target if the circumstances have changed such that

"environmental, social, economic or other costs … would be disproportionate to the benefits",

what if the circumstances have not changed? What if we got it wrong at the outset? Additionally, there is no requirement in the reviewing and reporting duties in the Bill to review and report on those costs or unexpected consequences. It is important that in creating any plans or setting any targets the Bill should require a full cost-benefit analysis to be carried out, which should be published as part of the plan or target. The review and reporting process should then be required to report on both the benefits and the costs, including any unintended or unforeseen consequences, and not just on whether the target has been met, as the Bill is drafted. Just stating whether a target has been met—when, for example, all we have done is export the problem or where the costs have turned out to be much higher than expected or the action has caused unexpected environmental damage in another way—is to give an incomplete and possibly misleading picture. The Bill needs amending to ensure that the full costs and implications are measured and taken into account. Without that, there is a real risk we might in some situations do more damage than good.

6.04 pm

Baroness Altmann (Con) [V]: My Lords, I welcome the Bill and congratulate my noble friend the Minister on his personal commitment to improving the environment and to producing a world-leading environmental policy framework for the UK. His knowledge, interest and passion for the environment are admirable, as are the credentials of my honourable friend in the other place the Minister Rebecca Pow and my noble friend Lord Benyon, a Minister here. We are fortunate to have them involved in this Bill. I support much of what the Bill seeks to achieve and welcome targets on net zero, biodiversity, air and water quality and waste management, which could be world-leading and put environmental concerns at the heart of all government policy-making.

The commitment from my right honourable friend the Prime Minister to demonstrating the UK as a global leader in environmental and biodiversity protection is welcome, but it needs to extend well beyond this year in which we are chairing G7 and COP 26. Therefore, the concerns I have, like those of other noble Lords, relate more to implementation of the Bill's measures, going beyond drawing up plans and reporting on problems and into delivering required investments and adaptations in far less than the 15 years proposed. This is one area of the Bill which I hope noble Lords might be able to strengthen in Committee. For example, I would support including legally binding interim targets, perhaps every five years. Clauses 1 and 3 would suggest a 15-year plan starting in 2022, whose targets might be missed along the way but no legal challenge would be possible before 2037.

[Baroness Altmann]

I join other noble Lords in expressing concern about the lack of enforcement powers for the office for environmental protection, a rather toothless tiger unable to impose legally binding sanctions.

A third major concern relates to water pollution and the release of pollutants such as agricultural waste and partially treated and even raw sewage into our waters and rivers. I congratulate the noble Duke, the Duke of Wellington, on the First Reading today of his Private Member's Bill on this issue. I also support the noble Baroness, Lady Boycott, the noble Earl, Lord Shrewsbury, the noble Lord, Lord Chidgey, and my noble friend Lord Randall in their concern about the release of harmful viruses, parasites and bacteria into our waterways from such pollutants, which regulators have been unable to control, and about the risks that this poses to humans, animals, fish and plant life.

Our water infrastructure has not kept pace with population growth and housing developments. It is vital to reduce the reliance of water companies on storm overflows and to do more to divert clean water from sewers. I welcome the storm overflows taskforce and the aim for all parties to collaborate: government departments, businesses and, importantly, the general public, who need clear explanations of the damage done by items flushed into our sewers and drains. I also welcome the Government's promise to lay their own amendments on this matter in Committee. I shall look carefully at their wording and hope they will encompass the measures pressed in the other place by my right honourable friend Philip Dunne and my honourable friend Richard Graham, which were rejected at that time but may now be accepted. I thank my noble friend the Minister and his officials for their engagement so far and their promise of future meetings to discuss the matter. The Bill requires amendments that will strengthen Clause 78, for example, with clear provisions to address and control the pollution caused by severe sewer overflow events, with formal reporting and legal requirements for year-on-year improvements.

I also call on the Government to pursue their intention to ensure that pension funds are harnessed to help in the fight against environmental damage. They have a central role in helping us reach net zero and control biodiversity. Their long-term liabilities and investment profile make them hugely vulnerable to climate change, and pension funds can be influential in aligning others with net zero. I congratulate the Government on the fact that the Pension Schemes Act 2021 aims to ensure that new regulations require large pension funds, master trusts and others to focus on climate risks, and I believe that members increasingly would want their money to fit with their values and to help address climate change. I urge my noble friend to press on Ministers that this needs to encompass defined benefit as well as defined contribution schemes.

I support the Bill. I congratulate the Government and my noble friends on the laying of it. I hope that the Government will accept some of these amendments during Committee and Report.

6.10 pm

Lord Rooker (Lab) [V]: My Lords, I intend to confine myself to governance issues. If the Bill is left as it is, it will not take long for the public to lose confidence in the protection and enhancement of the environment. I make no apology for reminding the House of an issue that I have raised several times before, regarding the governance gap on leaving the EU. The first of the latest two times was on 7 March 2018, during a debate on the EU withdrawal Bill, when I raised the issue of the EU Commission taking the United Kingdom to the ECJ on environmental issues on 34 occasions and winning on 30 of them; the other four remained in dispute. Both Labour and Tory Governments opposed the Commission, causing it to take action. If it had been left to the Government, we would not have had the benefit of the Commission's upgrades to the UK environment. I did the same again on 2 July 2018, during a debate on the NERC Act 2006 report. It was the threat of infraction—that is, the EU financial fine—which stimulated the UK Government to act in the interests of a better and safer environment. I pointed out, in col. 412, that Defra was in control and "loves control"; it is part of the culture. It was the same when Defra was MAFF. I was in both, several years apart, and the culture has not gone away. I could also warn that Defra, as old MAFF, wanted to have the Food Standards Agency as an executive agency of MAFF.

The threat of infraction—a fine on the UK Government—has gone; we are, therefore, left with a gap. Anyone who disputes that should look at the opinion piece by Michael Gove published on 13 November 2017 when he was the Defra Secretary of State. This is an authored article, on GOV.UK, on the new independent body for environmental standards. I will give two quotes from it. He said:

> "Some of the mechanisms which have developed during our time in the EU which helpfully scrutinise the achievement of environmental targets and standards by Government will no longer exist in the same way, and principles which guide policy will have less scope and coverage than they do now. Without further action, there will be a governance gap. The environment won't be protected as it should be from the unscrupulous, unprincipled or careless."

He went on to forecast

> "a new, world-leading body to … hold the powerful to account. It will be independent of government, able to speak its mind freely."

This Bill, with the office for environmental protection, does not do that.

I am not a lawyer, but before I read the note from the Bingham Centre for the Rule of Law on this Bill and the OEP I had worked it out. Now that I have read the detailed Bingham briefing, I can see how shoddy the proposal is. Bingham takes apart Clause 37, regarding the power of the OEP and the environmental review. On the principle of legality and remedies in breach of environmental law, the question is:

> "In plain English, if a public authority breaks the law, can it be brought to a court, and can the court correct the wrong?"

The conclusion is that Clause 37(7)

> "does not satisfy the Rule of Law."

An act of a public authority can be unlawful but the act "remains valid", so the unlawful environmental acts are "valid by default". This is the

"'new normal' under clause 37(7)".

As the Government's Explanatory Notes to the Bill say,

"the statement of non-compliance confirms that the court has found that the public authority in question has failed to comply with environmental law, it does not in itself invalidate the decision of the public authority in question."

According to Bingham, this means that the ruling from a court

"will have zero legal effect. What then is the point in an environmental review?"

The remedy on damages in Clause 37(8) presents a problem. The Bingham conclusion is:

"The lack of a remedy in damages combined with the inability of the OEP to impose fines weakens the ability of the OEP to provide effective sanctions for breach of environmental law."

This introduces the novel "polluter doesn't pay" principle.

Returning to Michael Gove's promise of a world-leading body being independent of government, the Bingham conclusion is:

"The OEP does not have an express statutory duty to be independent of the Government or of public authorities, nor does it have institutional guarantees of independence. The language of the Bill indicates the … OEP to be impartial, but not fully independent."

In effect:

"The ability of the Secretary of State to issue guidance on enforcement policy and enforcement functions opens up the real possibility of the Secretary of State issuing guidance on how the Secretary of State is to be investigated."

This is preposterous. As Bingham says, this is

"at odds with sound administrative practice and undermines the Rule of Law."

The Defra Secretary of State owns the OEP lock, stock and barrel:

"This lack of independence compromises the ability of the OEP to pursue effective remedies for breaches of environmental law."

If there is any doubt that stronger powers are needed, the fact was published last week that, of 640 bathing sites in the UK, only 110 are judged to be excellent by the Environment Agency. UK bathing water was the worst in Europe in 2020. The only reason that it has improved in past decades is due to the Commission taking the UK to the European Court of Justice, which is where I started. This Bill needs big changes.

6.16 pm

Lord Carrington (CB) [V]: My Lords, I declare my farming and land-owning interests as set out in the register. I welcome this ambitious Bill and congratulate all those who have done their best to encompass so much in this vast work. Like many noble Lords, I have thoughts on how this Bill could be improved but, in the time available, I will highlight two subjects that are omitted and express my concern regarding another that is covered. The problem that this Government have in producing a raft of necessary legislation on food, environment, farming, welfare and health is producing policies that are joined up and this Bill is a prime example of the importance of balancing real concerns.

Like the noble Lord, Lord Redesdale, and the noble Viscount, Lord Trenchard, I would be most grateful if the Minister could explain why heritage is excluded from this Bill, although it features in the 25-year environment plan. Perhaps heritage might not have featured in the Garden of Eden as natural environment, as described by John Milton in *Paradise Lost*, but times have moved on and historic features and structures, including field systems such as ridge and furrow, stone walls and old farm buildings are often inseparable from the natural world and certainly provide habitat for many species, endangered or otherwise. Heritage is surely now a crucial part of the natural environment. Its omission means that there are no long-term targets, and with no targets funding cannot be directed towards meeting them. There is no monitoring or reporting. Surely the OEP's objective of environmental protection and improvement of the natural environment should consider heritage and, in particular, when there is a conflict between natural environment enforcement and surrounding heritage.

I would also be grateful if the Minister could explain why the Government's tree-planting targets are not enshrined in this Bill. The planting of trees has rightly become a huge government priority, whether it be urban planting, commercial forestry, preservation of ancient woodland, or planting in field corners or hedgerows. The carbon sequestration benefits, the health and amenity advantages, together with the greater use of domestically grown timber in our construction industry, have all been highlighted. The plan is to grow 30,000 hectares annually across the UK and we are currently woefully behind this target. Trees form a major part of the environment plan and the English tree strategy has now become the England tree action plan. New funding arrangements have been announced and I hope the long-awaited ELM schemes will include something on trees.

Surely, the importance of tree planting, a crucial part of the natural environment, should be covered on the face of the Bill rather than just in the supporting structure. Legally binding tree planting targets should be enshrined in legislation. Targets would need to encompass sustainable practices for all types of planting, as there are considerable differences between forestry and arboriculture. The industry is behind such a move, which would have the added benefit of encouraging the necessary investment.

Clause 107 cries out for more substance. Coming under the heading "Tree felling and planting", it covers only felling. Surely, this would be an excellent location for measures to regulate tree planting, so that if the trees cannot be sourced from UK growers, every possible measure is taken to ensure that no disease can be imported.

My other major concern, mentioned by the noble Lord, Lord Cameron of Dillington, relates to the importance of balancing environmental protection with food production. Measures in the Agriculture Act are aimed at promoting sustainable farming. No doubt, gene editing and technology will lead to some increases in productivity, but it is also clear to the farming industry that, in the short and medium term, food production in this country is likely to diminish. We

[Lord Carrington]
therefore need to ensure there are no unintended supply consequences from measures taken to enhance the environment.

An example is in the House of Lords report *Hungry for Change* and the national food strategy. They correctly underline the importance of increasing demand for the consumption of fruit and vegetables but do not consider the supply side of the issue. In England, a high percentage of fruit and vegetables is grown in areas where irrigation is necessary practice. The Bill proposes increased power to revoke and vary licences for abstraction with no compensation. Who in their right mind is going to invest in this type of high-risk agriculture and horticulture without the guaranteed ability to abstract? This will lead to more imports from places without those concerns and more carbon due to transportation. There is also the devastating effect on the livelihoods and finances of those involved.

This all goes back to my initial comment about the need for joined-up policies where inevitable compromises need to be made, not just in the interest of the environment but in the interest of feeding people. This should have been brought home to us all by the announcement last week of the 40% surge in global food prices in May. No doubt, some of that increase might be temporary, and richer people who currently spend a smaller proportion of their income on food can afford a rise. But what about the poorer people in this country and around the world, whose income cannot absorb such rises? Let us make sure we get the balance right.

6.23 pm

Lord Lilley (Con) [V]: My Lords, I begin by declaring my interest as the owner of a smallholding with a few sheep and poultry, albeit in France and outside the purview of this Bill.

This Bill is profoundly conservative in two senses of the word. First, it is Conservative with a large "C", because the Conservative Party is, and always has been, about conserving all that is best in our country that we have inherited from our forefathers and wish to hand on to our successors. But secondly, it is conservative with a small "c" in its desire to resist any change, which is very widespread in this country, going way beyond the Conservative Party. The Bill, to some extent, enshrines that desire to keep the environment unchanged, as it is. But the environment in this country is largely manmade. Before man set to work, it was covered with dense and impenetrable forest. No one proposes we go back to that, apart from a few extreme rewilders.

The environment has changed considerably over our lifetimes. I was brought up in the outer suburbs of London, a few hundred yards from the first farm. I used to enjoy watching the horse-drawn ploughs ploughing the small fields. The landscape at that time was a patchwork of small fields surrounded by hedges, which changed over time, partly as a result of mechanisation and partly as a result of EU subsidies encouraging farmers to dig up their hedges and have larger fields. We need to be conscious that we cannot freeze time. Had we tried to do so, food production would be lower and the cost of living higher, and we would have to import a far higher proportion of our food than we do.

There is a paradox at the heart of the Bill: the environment is largely the result of human action, not human design. It is the spontaneous creation of the actions of thousands of farmers, foresters and landowners serving millions of consumers. Yet, we assume in the Bill that it needs a centralised, guiding bureaucracy, a 25-year plan, vast apparatus of law and regulation and subsidies diverted from promoting food production to providing environmental goods. Is all this necessary? We certainly need to prevent the environment being despoiled by plastic, waste, litter, industrial waste and unregulated pollution. But, quite possibly, those problems would be better dealt with by individual measures relating to each, rather than by setting up some central, guiding, Soviet-style planning apparatus to preserve what was never the creation of human planning.

But we are where we are, and where we are is outside the European Union, so we have to decide what our own environmental rules, policies and principles should be. Fears were expressed during the referendum campaign, and subsequently, that we would set lower standards than those enshrined in the laws we have inherited from the EU. We certainly do not want to see lower standards, less clean air or less pure water. But there are many dimensions of regulations apart from higher and lower. We should aim to make our regulations simpler to comply with and outcome-based rather than process-based, creating as few barriers as possible to entry into agriculture and elsewhere and as few barriers as possible for small operators, rather than privileging the large landowners and industrial farmers.

We can now relate our regulations to our national circumstances. In doing so, we should be able to apply the precautionary principle in a more rational and pragmatic way than has been the case in the European Union. Someone described the way the European Union approaches the precautionary principle as "You should never do anything for the first time". Of course, if there are real reasons to fear harm from some new process or innovation, we should take precautions. We should, perhaps, allow pilot projects before licensing more widely. Certainly, we should take into account experience elsewhere. But we should not rule out anything and everything from which anyone can imagine a threat, particularly when those threats are invented by those who are fundamentally anti-science, anti-industry and anti-prosperity.

I hope we will be open to using GM crops. I declare an interest here as Rothamsted was in my constituency when I was an MP. Wonderful research is done there into GM, CRISPR and conventional development of new species, always with due concern for risks. As a result, new varieties are created that require fewer pesticides and herbicides and produce more output with less fertiliser. I hope we can take advantage of the research and adopt an approach based on measuring costs against benefits in our regulations. I recall that some EU directives did not do so. We must all take a more balanced and proportionate approach. I support the Bill but with grave reservations.

6.29 pm

Lord Smith of Finsbury (Non-Afl) [V]: My Lords, I remind the House first of my interests as declared in the register.

The Bill is broadly welcome. It says it has ambition, it aims to set its sights high, and it betokens a wish on the part of the Government to have strong environmental standards in what is, alas, a post-Brexit world—so far, so good. But it does not get everything right, and there are three things I would like to focus on.

First, it is fundamentally important that the new office for environmental protection—the OEP—is robustly independent. Many noble Lords have touched on this point. The Bill rightly makes no provision for the Government to be able to give instructions to the OEP, but they can give guidance. The problem, of course, is that guidance is pretty much the same as an instruction when it comes from the Secretary of State. When I first took on the role of chair of the Environment Agency, when Hilary Benn was Secretary of State, I remember that the agency felt not only that it had permission to speak out publicly on the state of the environment and issues affecting it but that it had a duty to do so—and we did speak out, sometimes in ways that the Government did not like. But when a new Government and Secretary of State came in in 2010, we were told that we should not speak out publicly—that we were welcome to give private advice to government but that it should remain private. The public voice was gone. The same thing must not happen to the OEP. There should be a duty on the OEP, spelled out in the Bill, to speak out publicly on issues of concern for the environment. The role of the Government should not be one of guiding or instructing but one simply of proposing. The OEP should, in other words, have its independence and voice guaranteed in the same way, for example, as the Committee on Climate Change.

The second issue I want to highlight relates to water use. In some parts of the country—Cambridgeshire is a prominent example—there is a serious danger to the levels of flow in and the survival of the wonderful chalk streams that are a unique part of the English landscape. Quite simply, we have to draw down less water. There are many answers to this hugely important problem, and in Cambridge Water, which I chair, we are exploring all of them. But one of them must lie in helping all of us to conserve more water. We waste too much. Of course, the Bill contains measures on water abstraction, but it also presents an ideal opportunity to make two important legislative changes to help water conservation: first, a mandatory water-efficiency label on water-using products in exactly the same way as energy-efficiency labelling; and secondly, a change to building regulations to promote the recycling of rainwater and improvements to water efficiency in any new home or building constructed. Both measures provide very simple ways of ensuring that we use water more wisely.

The third issue to highlight is access for the public to nature and the natural environment. Surely the past year and a half have taught us something we already knew but had too often forgotten: access to nature is essential for our well-being, our health, our ability to exercise and the welfare of our souls. One of my proudest moments as a Minister was helping to bring in the legislation that made a right to roam a reality for open country, mountain and moorland, but this need goes much further—to the fields at the edge of town, the banks of canals and rivers, the local woodlands and the green spaces that we all love. Making sure that public access to these is available should surely be part of any ambitious environmental policy, yet in the Bill at the moment the long-term environmental targets and the environmental improvement plans provide only for a permission to consider access to nature, not a requirement. This must surely change.

The Bill offers a golden opportunity to commit ourselves as a nation to the very highest values for our environment and our biodiversity. It is far too important to be a matter of party politics and I am grateful to the Minister for reaching out to many of us around the Chamber. But let us aim to be more courageous, more ambitious and more environmentally confident, for the sake of all our futures.

6.36 pm

Lord Framlingham (Con) [V]: My Lords, I should first declare an interest in that I am the ex-president of the Arboricultural Association and currently an honorary fellow of it. I would like to talk about a blueprint for trees—or a greenprint, as I like to call it—as a contribution to the consultations on the national tree strategy, which is all part of our environmental future.

There are so many well-intentioned people and organisations currently involved with trees, and so many different and confusing proposals, that we are in danger of missing a golden opportunity simply through lack of organisation. There is no need to dwell on the beauty, environmental benefits and usefulness of trees. Thankfully, these qualities are at last generally accepted, as is the need to plant more and care for the ones we have.

My suggestions are: first, forests and forestry practice should be looked after by the Forestry Commission, with its wealth of experience, to produce timber, which is silviculture, while employing qualified and experienced foresters. This will not only produce timber but provide a continuing source of tree cover, with public access where appropriate.

Secondly, urban amenity tree planting and care—arboriculture—should be in a completely different category of its own, under the auspices of the Arboricultural Association. This would allow the trees in our towns and cities, their desperately needed green lungs, to be planted, cared for and defended properly by trained, professional arboriculturalists who really understand the subject. Local authority tree officers, who should be given more responsibility, are in the best position to identify the needs and costs in this area.

Thirdly, woodland old and new is neither silviculture nor arboriculture. It should be dealt with separately and could be supervised by an organisation such as the Woodland Trust, which would ensure that it is carefully managed, protected and regenerated while employing ecologists and foresters who understand woodland.

[Lord Framlingham]

Last of all, tree nurseries are obviously in a category of their own and very specialised. Their trade body, the Horticultural Trades Association, is best placed to forecast the country's tree needs, the problems involved with the importation of trees, the role of home-grown stock and the need for long-term planning and commitment by their customers and by government.

In summary, each of these four organisations should be used by government to inform the debate on the national tree strategy. This will help us to decide what to plant, where to plant it, what it will cost to plant and maintain, and who will be responsible for it. In turn, this will make a huge and vital contribution to ministerial decisions soon to be taken which are destined to have a long-lasting effect on our nation's trees.

I am conscious that I have not mentioned a myriad of organisations that play an important role in looking after our trees and whose contribution to this great debate will be invaluable—my apologies. I have sought to suggest a simple, open, consultative framework that is clearly understood and gives the Government access to the experience and understanding needed to plan, budget for and oversee the planting and care of our trees nationally.

Finally, on an entirely separate but related matter, I would like to say a word about "urban forestry". It is time that the use of this term in United Kingdom arboriculture be reconsidered. It is a contradiction in terms—what is called an oxymoron, I believe. Perhaps it is appropriate in America, where it originated, but it is hard for the layman to understand and unhelpful in practice. It is a large part of the reason why the public assume that our urban trees are looked after by the Forestry Commission, which clearly they are not, and why the term arboriculture has found it difficult to establish itself in the minds of tree owners and the country at large. I suggest that thought should be given to this matter by everyone involved in the tree industry and that each discipline, including arboriculture, should be clearly and correctly defined.

6.41 pm

Lord Marlesford (Con) [V]: My Lords, first, I declare my interest in the register as a Suffolk farmer.

This Bill has had a pretty troubled history over the past two years. It reveals some confusion, not just semantic, between what can be legislated for and what, however desirable, can only remain a policy aim to be striven for. Thus the phrase "to set long-term, legally-binding environmental targets", which was used very much in the Explanatory Notes and in the comments during the Commons period, is really an aspiration rather than a practical measure.

There are of course targets for which we can legislate. An example would be to say that all diesel vehicles will be forbidden to use Britain's roads after 2030. However, there are other targets that we might well welcome but which the Government have only a direct influence over. For example, we might like Britain's hedgehog population to be restored to the numbers that we would wish. Any farmer knows that virtually no production target can be legally binding; nor can a great majority of business targets. This does not mean that there is not much more scope for statutory regulation, as we have heard today. While regulations must be targeted, the targets themselves can seldom be legally binding.

I want to focus on one important and particularly fallacious part of the Bill: Clause 109 in Part 6. It deals with making commercial corporations responsible for not importing agricultural commodities that have been derived from the loss of forests from the world. It is a futile way of dealing with a most important and urgent problem, for one simple reason: it is seldom, if ever, practical to monitor and identify the international movement of commodities, especially if there is money to be made by muddying the trail.

In my few moments, I want to suggest a much more practical alternative, taking the protection of the Amazon rainforest as an example. The best way of achieving that is by financial incentives for the Governments concerned. My scheme would have to be organised and administered by the IMF and the World Bank. It would involve setting a commercial value on the areas of rainforest to be protected. That sum would then be multiplied by a factor to make its protection an offer that no Government could afford to resist. It might be a multiple of 10, 20 or even, in the crucial cases, as much as 100. Payment of these sums would not in any way involve taking over the ownership of the rainforest. Nothing would be taken from the nations or their Governments. Payments would involve taking over the debt liabilities of the countries concerned. The deal would be a simple one: provided the rainforest is not interfered with, the debt would become interest-free and not required to be repaid at term. The original lenders would be repaid by the World Bank, which would take the debt on to its own balance sheet.

The attraction for the country is that, if it could increase its own borrowing, it could then, without fear of any default, develop more rapidly itself. Also, of course, the monitoring of such an agreement would be straightforward using satellite technology. Not a single tree could be felled without it being spotted by a satellite or drone of some sort. The penalty for breaking the deal would be obvious: the debt would come back again, being obliged to be repaid with the accumulated interest. Very few Governments would feel that they could afford to risk that.

I originally put this idea forward at a Ditchley conference some 20 years ago. Its time has now come. I offer it and hope that my noble friend considers it.

6.48 pm

Lord Bilimoria (CB) [V]: My Lords, an independent review of the economics of biodiversity, produced by Professor Sir Partha Dasgupta of the University of Cambridge—I declare my interests—describes nature as "our most precious asset" and finds that humanity has collectively mismanaged its global portfolio. Our demands far exceed nature's capacity to supply the goods and services that we all rely on, and the last few decades have taken a devastating ecological toll. The review highlights that recent estimates suggest that we would need 1.6 earths to maintain humanity's current way of life. As Professor Dasgupta said:

"Truly sustainable economic growth and development means recognising that our long-term prosperity relies on rebalancing our demand of nature's goods and services with its capacity to supply them."

Since 1970, there has been an almost 70% drop, on average, in the populations of mammals, birds, fish, reptiles and amphibians. Some 1 million animal and plant species—almost a quarter of the global total—are believed to be threatened with extinction.

The CBI, of which I am president, has been addressing resources and waste reforms. In the wake of Covid-19, the new UK-EU relationship, rapid technological advancement and climate change, the country has a defining opportunity to set an ambitious target and course for the next decade and beyond. Protecting the environment for future generations should be at the heart of any economic vision for the UK. We have just launched our economic strategy—*Seize the Moment: An Economic Strategy for the UK*—for the next decade until 2030; climate change, biodiversity and the environment are key pillars of this.

Just as the CBI and our members stand with the Government on meeting the UK's target for net-zero carbon emissions by 2050, we are supportive of the ambition behind the resources and waste strategy to move towards a circular economy. The drive towards a circular economy, where resources are used efficiently and waste kept to a minimum, presents a genuine opportunity for the UK to be a world leader in sustainability. This could bring huge economic benefits, increasing our lagging productivity and improving prosperity for all. Responsible businesses know that they have a crucial part to play in protecting our environment and are acutely aware of the high consumer demand for firms to be proactive. We look forward to business continuing to work with the Government to ensure that we establish a pathway to a circular economy that enhances business competitiveness and empowers consumers to make positive choices. Does the Minister agree with this?

Some of the key points are that businesses need more visibility over how the reforms will work in practice. Taken together, the Government's reforms are the most comprehensive overhaul of England's waste and recycling system in a generation. Reforms on this scale are inherently disruptive, so it is crucial to ensure that their implementation, both logically and practically, take the pressures facing business into account. Many CBI members feel that the pace of reforms and lack of clarity of their design, so close to implementation, mean that many could struggle to make the necessary changes in time. Do the Government agree with that?

There are additional costs and burdens on business that need to be kept to a minimum. Consumers must be encouraged and empowered to make positive choices. The BBPA, which is a member of the CBI and of which my business is a member, says that it is crucial that the implementation of a deposit return scheme does not further hinder pubs, brewers and producers, but provides them with a platform to play an important role in supporting our environment, while continuing to operate efficiently and profitably.

The B7, which I was privileged to chair last month, feeds into the G7. There are important milestones to deliver successful outcomes and build momentum ahead of the B20, the G20 and COP 26. As we address the challenge of reducing carbon emissions, business also needs to consider wider impacts on the environment, particularly biodiversity, where more work needs to be done to understand how business and government can work together to create a sustainable future for all. G7 nations should prioritise national policies to support the development of markets that value diversity, biodiversity, natural environments, natural carbon sinks and nature-positive business activity. Biodiversity loss is occurring worldwide, and the decline is set to continue under business-as-usual patterns of activity. The World Economic Forum estimates that over half of global GDP is threatened by nature loss. Therefore, preserving nature is central to a sustainable future.

The G7 Energy and Climate Ministers issued a joint communique on G7 climate and biodiversity, and it is encouraging that they have taken the B7 recommendations on board. The OECD speaks about natural capital underpinning all economic activity. Greener UK says that the stakes could not be higher for this first dedicated environmental Bill in over 20 years. The World Wildlife Fund welcomes the Environment Bill and calls for a statutory deforestation target. Are the Government considering this? The UK NGO Forest Coalition says that halting the global loss of forests and other natural ecosystems is essential.

I conclude with Sir David Attenborough, the famed Cambridge alumnus, who welcomed the Dasgupta review, saying that it is

"the compass that we urgently need."

He said:

"Economics is a discipline that shapes decisions of the utmost consequence, and so matters to us all. The Dasgupta Review at last puts biodiversity at its core … This comprehensive and immensely important report shows us how by bringing economics and ecology face to face, we can help to save the natural world and in doing so save ourselves."

The Deputy Speaker (The Earl of Kinnoull) (CB): I call the noble Lord, Lord Sheikh.

Baroness Bloomfield of Hinton Waldrist (Con): Lord Sheikh, you need to unmute.

The Deputy Speaker (The Earl of Kinnoull) (CB): I regret that we are having connection problems with the noble Lord, Lord Sheikh, so we move to the noble Lord, Lord Bradshaw.

6.56 pm

Lord Bradshaw (LD) [V]: My Lords, the stated purpose of the Environment Bill is to improve the natural environment and the 2019 Glover review of the national parks and areas of outstanding natural beauty that called for radical change in the way we protect our landscape. The review stressed the need for us to take urgent steps to recover and enhance nature. One thing that is causing damage to the natural environment and to our fragile and precious landscapes is that 4x4 vehicles, motorbikes and quad bikes are allowed to be driven for purely recreational purposes on unsealed tracks all over the countryside, including in national parks and areas of outstanding natural

[Lord Bradshaw]
beauty. The only reason this is allowed to happen is because the law as it stands states that a countryside track, whatever it may be, which has been used in the past by horsedrawn carts, carries a right of way for any kind of modern motor vehicle.

Parliament attempted to deal with this problem in 2006 in the passage of the Natural Environment and Rural Communities Act. It put a stop to the historic use of horsedrawn carts, giving rise to the use of cars and motorbikes on footpaths and bridleways, but it left unprotected over 3,000 miles of other tracks in the countryside that have no right of way classification. These are the country's green lanes. They are all open to use and abuse by recreational motor vehicles, and as a result, great damage is being done, even on the high fells. The amendment I will seek to table does not ask for an immediate change in the law, and if passed, it would require the Secretary of State to return to the business that was left unfinished by the Natural Environment and Rural Communities Act and to carry out a public consultation on whether the loophole left behind by that Act should be closed.

The other issue that has recently come into prominence after the recent county council elections is the connection between many large housing estates and the wastewater and sewerage facilities until they are able to process the new load. This leads to an abuse of the exemption in place for exceptional storm water, resulting in the pollution of rivers and streams in the area. Reference has been made by other noble Lords to the thoroughly inadequate enforcement facility. This needs immediate action to stop the present abuse.

The contamination of sewage with wet wipes and other materials should be tackled at once by making a prominent announcement on the packaging of such products showing that they are not for flushing. Yesterday, I examined a number of these products. Many make statements such as "May be recycled as dictated in the locality." One product, in very tiny letters, did say "Not for flushing." There is no reason why immediate action should not be taken to deal with this by making a "Not for flushing" sign on all such packaging so that people could at least be advised about what they should do.

I fully agree with the noble Lord, Lord Smith of Finsbury: all new housing estates should be fitted so that they catch and preserve water rather than feeding it into the sewage system. Also, they should all use efficient machines, which will do a great deal more to conserve the water we use than the present system of letting rainwater go to waste and continuing to install inefficient machines.

7 pm

Baroness Bennett of Manor Castle (GP): My Lords, my noble friend Lady Jones of Moulsecoomb has already set out the temporal position of the Bill: it is at the end of a long line of debates on the Agriculture Act, the Fisheries Act, the Trade Act and Brexit. It is the place where the Government told us that many of the issues raised in those debates would finally be dealt with. It would seem that it is also the place where the Dasgupta review's call for new economic indicators should be acknowledged, as the noble Lord, Lord Bilimoria, referred to. It is the place to start the transformation from an economy based on the exploitation of people and the environment to a system based on resilience and regeneration.

Some 25 years after the Act that set up the Environment Agency, the Bill is certainly urgently needed, for that Act and 25 years of Governments of various hues have clearly failed. Our nation ranks 187th globally for the state of our nature. Much of it is a beautiful but sterile green desert, from the burned, shorn land of our first national park in the Peak District to the rapeseed flowers now blanketing chemical-drenched fields.

Yet food security remains an acute and pressing issue. Unlike the noble Lord, Lord Cameron, I will not posit a third world war, but rather point to our responsibility, as a wealthy nation, not to take food, water, labour and resources from the fields and mouths of others in a world where production is threatened by the climate emergency, the water crisis, the destruction of soils and the massive practice of food waste that is the factory farming of animals.

Many noble Lords have already addressed issues that the Green group—all two of us—will seek to offer our support on. I endorse many things that the noble Baroness, Lady Parminter, said so eloquently, including on the need for environmental principles to be applied universally, the need for local governments to have the resources they need to protect and enhance nature, and the principle of net biodiversity gain not excluding major infrastructure developments. In fact, I will go further: we need to abolish the principle of biodiversity offsetting. We have so little left that we cannot afford to destroy any national treasure that we have left—certainly not for the uncertain outcome of a few saplings stuck in a field and called a replacement for an ancient forest.

Relatedly, the Secretary of State should not be allowed to amend the habitat regulations at will. The noble Lord, Lord Montrose, spoke of a forest of Henry VIII regulation. This is one forest that should be felled. The noble Lords, Lord Khan and Lord Rooker, focused particularly on the legal weakness—indeed, the legal attack on basic principles contained in the Bill—as so powerfully outlined by the Bingham Centre. We will work on that.

I agree with everything said by the noble Baroness, Lady Boycott, who is not currently in her place, and thank her for drawing attention to the Knepp planning issue. Drawing a broader point from that, in their planning and agriculture principles, the Government seem to be locked into a sparing rather than a sharing mindset—one of sparing a little land and making it pristine and rich but trashing the rest for industrial agriculture or housing luxury development of a kind that fails to meet urgent community needs. We need to care for all of our land.

The noble Lord, Lord Trees, pointed out an obvious gaping hole in the Bill: the lack of measures on antimicrobial resistance. I do not often quote David Cameron, but I will today:

"With some 25,000 people a year already dying from infections resistant to antibiotic drugs in Europe alone, this is not some distant threat but something happening right now".

That was in 2014. The noble Lord, Lord Teverson, rightly stressed the importance of our marine environment and the non-existence of its protection. The Green group intends to offer support on all these issues and more.

I am afraid that the nature of the rest of my speech is also that of a list—that is, a list of the issues that I have not heard other noble Lords clearly set out. This reflects concerns that my noble friend and I have heard from the millions of voters we do our best to represent and the many industry and campaign groups whose issues are not covered or are badly dealt with by the Bill.

The ordering is roughly in the order of the easiest issues, from those that any sensible Government would surely embrace through to those that require a fundamental philosophical shift and an understanding that there are enough resources on this planet for everyone to have a decent life and for the natural environment to be cared for if we just share them out fairly. This requires a sudden outbreak of understanding of planetary limits—I live in hope.

First, on plastic and packaging materials, an amendment is needed to ensure that the bottle deposit scheme is variable, reflecting the size and impact of bottles, not just their number. An amendment is also needed to tackle the horrendously costly waste of disposable nappies, both to household budgets and the cost we all bear in council waste. However, what is really lacking in the Bill is an understanding of the waste pyramid. Recycling is third best; we have to reduce and reuse, and recycling comes a poor third.

Secondly, on pesticides, we have soaked the planet with poison. We need to protect rural dwellers, and the whole of our land, from pesticide applications.

Briefly, because I am running out of time, human rights have to be linked to environmental rights—due diligence along the lines of the Bribery Act. Then there is the issue of what land is for, which was partially raised by the noble Baroness, Lady Young of Old Scone. It has to be for the people and for the natural world. Driven grouse shooting, growing food to waste in feeding animals kept in misery, and sugar beet production, which strips soils and produces obesity, are some examples of land uses we do not need.

Finally, we often hear in your Lordships' House that these are crowded islands. The crowding has one very large cause: 50% of the land is owned by 1% of the people, so 99% of people are excluded from half of our land. An Environment Bill surely has to offer access to more of it—a great deal more—for food growing, nature and recreation. They are not making any more land, so we have to share it out fairly.

The Deputy Speaker (Lord Lexden) (Con): My Lords, the noble Baroness, Lady Bennett, made reference to Lord Montrose. He is in fact the Duke of Montrose. I call the next speaker.

7.07 pm

Viscount Ridley (Con) [V]: My Lords, I declare my interest as a landowner, a passionate conservationist and the president of the Moorland Association.

I wish to talk about the new policy of biodiversity net gain—although I agree with my noble friend Lord Blencathra that it would be better to call it "nature net gain". It is good to see this policy being enacted into law. I remember the fury with which a lot of green pressure groups reacted to Owen Paterson's suggestion of offsetting when he was Secretary of State. Now, seeing that it might be a source of revenue, they have changed their tune. However, a lot can go wrong if the policy is badly implemented, so I want to set out how the Bill can be improved to ensure that the policy benefits biodiversity rather than bureaucracy. To do that, I will tell two stories from recent personal experience.

First, I own a converted barn as a holiday home in the Durham Dales. Last year, we drew up plans to extend it with an extra bedroom. We were told that we could not even apply for planning permission until we had had a bat survey, and this being October, we could not have a bat survey until spring, and then not until the temperature was consistently above 15 degrees. It never got that warm in April and May this year, so the bat survey is happening this week, done by three ecologists at dusk. There are bats about, but they are common pipistrelles and there is plenty of roosting space that will not be disturbed by the work, so we will probably get the go-ahead. However, the episode will have delayed the work for nearly two years and it will not have done anything for the bats. The better approach for the bats is offsetting: building lots of bat roosts right at the start and then going ahead with the development. That is biodiversity net gain in action. The trouble is that it is bad news for bat surveyors, who will lobby against it. My first question for the Minister is this: can he assure me that biodiversity net gain will be introduced instead of rather than as well as the wasteful policy of endlessly paying out vast sums of taxpayers' money to do futile ecological surveys before development?

Secondly, a few weeks ago I went to see a farm on the Isle of Sheppey on the outskirts of London, where a man named Philip Merricks has done something remarkable. He was a normal arable farmer until the land was designated as a site of special scientific interest and a national natural reserve, which meant farming in a more wildlife-friendly way. But he took one look at the recommendations from the Government and said, "I can do better than that. If you want redshanks and peewits"—sorry, they are called lapwings down there—"I will farm for them as if they were sheep." He now has 350 pairs of both lapwings and redshanks on a spectacular landscape, rich in birdlife, of wet meadows and grass grazed by cattle. He achieves this by ruthless predator control, killing hundreds of crows a year and excluding badgers with special fences, as well as imaginative habitat management.

Next door, the RSPB had similar habitat, just as good, but was rearing only 0.1 chicks per pair of lapwings. That means, as Merricks realised, that it was, in effect, draining his population by making good habitat tempting to birds but where the eggs and chicks were all taken by crows, gulls, foxes and badgers. It was actually doing harm to the species and would be in breach of the new species abundance target my noble friend the Minister mentioned in his speech. Yet this is how most conservation is done in this country:

[Viscount Ridley]
we count the birds but not the chicks. We pay by intentions, we do not measure the results and we reward failure.

The RSPB owns a huge moorland in north Wales, at Lake Vyrnwy, where it has presided over steadily declining numbers of curlew, lapwing, merlin, black grouse and red grouse. It has been rewarded with millions of pounds of grants and subsidies precisely because these species are doing so badly there, whereas the land my family business shares with farmers in the North Pennines has a huge and healthy population of curlew, lapwing, redshanks, snipe, woodcock, golden plover, dunlin and black grouse, all achieved at our own expense through the relentless control of foxes, crows and stoats—but, of course, we are pilloried by environmentalists because we also shoot grouse.

I have two more questions for my noble friend the Minister: can we have nature-based policies that reward success and not failure, and can we allow experimentation and local initiative and not try to determine everything from the centre? We need conservation entrepreneurs like Philip Merricks who are incentivised to find cost-effective solutions, not risk-averse monopolies of bureaucrats playing safe by never trying anything new and insisting on a one-size-fits-all policy that does not tap local knowledge.

The Bill's ambitions for nature recovery will not be met unless private sector investment into private landholdings is facilitated. Nature recovery cannot be left solely within the domain of the big environmental NGOs. They do not have access to sufficient land, and landowners rarely want them involved in the management of that land. Natural England is progressing with the establishment of a credit sales platform through which government credits in biodiversity net gain will be sold to developers. This is a huge mistake, because it will inevitably crowd out a developing market in these credits. It is statist and anti-competitive, and hence open to legal challenge.

Nature should not be left to risk-averse public sector monopolies. We should all be allowed to play our part in its enhancement.

7.13 pm

Lord Faulkner of Worcester (Lab) [V]: My Lords, this has been an extraordinary, wide-ranging and fascinating debate, and it is a pleasure to follow the noble Viscount. I found his speech absolutely riveting.

I am happy to support what the Government are doing in this Bill, and I do not dissent at all from their wish to improve the natural environment and air and water quality. It is entirely appropriate that there should be legislation to bring about the necessary changes. Clean and safe drinking water and effective sewerage in Victorian times, the smoking ban earlier this century, and the Clean Air Act of the 1950s were all the results of laws passed by Parliament. These all contributed massively to public health, and this Bill is intended to do the same. I certainly do not intend to oppose it.

However, such a policy brings with it a danger of unintended consequences. Had a ban on coal burning extended beyond domestic consumption, it would have wiped out almost overnight the entire heritage steam sector: coal-burning railway locomotives on conserved lines and main lines, traction engines, steamrollers, industrial museums, steamboats, pumping stations and traditional fires in historic houses.

Two years ago, the All-Party Parliamentary Group on Heritage Rail—I declare an interest as one of its vice-chairs and also as president of the Heritage Railway Association—was sufficiently alarmed to conduct an inquiry into the requirement of heritage railways for coal and the future of steam locomotives in the United Kingdom. The group's report concluded that steam trains are an essential part of the railway heritage offer and are the principal attraction for visitors. There is no practical alternative to the use of coal for steam locomotives on Britain's heritage railways. The economics of heritage railways are fragile, and they would lose most of their unique appeal if they were unable to run steam trains. Such a loss would result in redundancy among paid staff, a restriction in operations, and a smaller sector.

It is worth recalling that, in normal times, these railways attract 13 million visitors, provide 4,000 jobs, with 22,000 active volunteers, and have a £400 million positive impact on the national economy. The impact on local tourism economies where heritage railways are located, particularly in rural areas, is immense. They also provide training and apprenticeships in a wide range of skills and disciplines. In remote areas, such as north Wales, they are already contributing to the levelling-up agenda. The value of the wider sector, which embraces steam road vehicles, ships and boats, is also considerable. It, too, contributes to local economies and offers training, education and apprenticeships. The same goes for engineering museums and historic houses.

I understand why the Government are ending coal-fired power generation by 2025, and I support the restrictions on domestic coal burning proposed in the Government's consultation on the clean air strategy. I also welcome Ministers' repeated assertions that the heritage sector is excluded from the proposals in the Bill. They are right to do so, bearing in mind that the quantity of coal used by the entire sector is no more than about 35,000 tonnes a year—the amount burned each day by the Drax power station before it was converted to biomass. Clearly the risk to public health is tiny.

However, having accepted that the sector may continue to burn coal to make steam, it will be essential that there is an affordable supply. I expect that in future all the coal needed will be imported from countries such as Russia, Colombia and the United States. Bearing in mind the scale of the carbon footprint involved in moving coal from one side of the world to another, that makes no sense to me while we here in Great Britain are sitting on vast unmined resources of our own. I accept that we have lost that battle, and it is worth remembering that heritage railways in particular are working hard to reduce emissions and are researching the potential for artificial biocoal.

However, we must not lose the next battle in which another, less well-disposed, Government may decide to attack the activities of the heritage steam sector, perhaps under the climate change rather than clean air agenda, and we need some certainty for the future. My

colleagues in the Heritage Fuels Alliance and the HRA and I greatly appreciated the opportunity to meet the Minister on 25 May to discuss these matters and we are happy to accept his assurances for the purposes of this Bill. He will recall that he said that banning heritage coal use would be a disproportionate response to the clean air and climate change agendas and would damage the great cultural and economic value of the steam sector to our tourism economy. I therefore hope that the Minister will agree to accept an amendment I plan to table in Committee that will put that welcome support into the Bill.

7.19 pm

Lord Harries of Pentregarth (CB) [V]: My Lords, as industrialisation in the 19th century increasingly damaged the environment, a few people, including Alexander von Humboldt, Emerson, Thoreau and John Ruskin, spoke out. The cry of the poet Gerard Manley Hopkins speaks for all those prophetic past voices and for the billions today who suffer the effects of pollution, poor air quality, dirty water and soil deprivation:

"What would the world be, once bereft
Of wet and wildness? Let them be left,
O let them be left, wildness and wet;
Long live the weeds and the wilderness yet."

Sixty years ago, those cries became more urgent, with Rachel Carson's 1962 book *Silent Spring* on the effect of pesticides and EF Schumacher's warning on the dangers of continuous growth. Within the Church of England, Hugh Montefiore, the Bishop of Birmingham, uttered similar warnings. Many in my generation were slow—too slow—in really hearing what those and others were saying. I exempt the right reverend Prelate the Bishop of Salisbury and wish him well for his future work in this area, but I include myself among them. If there can be an excuse, it was that I was worried that focusing on the environment might be too much of a distraction from pressing human rights issues. What is quite clear now, however, is that the two are indivisible: a concern for the environment is also a concern for the rights of those who suffer now, especially the poor, and the right of future generations to be born into a habitable world. As Pope Francis put it in his wonderful 2015 encyclical, *Laudato Si':*

"Today … we have to realise that a true ecological approach always becomes a social approach; it must integrate questions of justice in debates on the environment, so as to hear both the cry of the earth and the cry of the poor."

A particularly striking and egregious example of failure is, of course, the deforestation that is taking place in the Amazon, resulting in the indigenous people losing their homes and their way of life. A statement by the national institutions of the Church of England puts it in a very balanced way:

"The whole creation belongs to God. As human beings we are part of the whole and have a responsibility to love and care for what God has entrusted to us as temporary tenants of the planet. We are called to conserve its complex and fragile ecology, whilst recognising the need for responsible and sustainable development and the pursuit of social justice."

If the issue was seen to be urgent by a few 60 years ago, how much more urgent is it now? I am glad to say that this sense of urgency has run through the debate. The Bill is a landmark opportunity to get things right and show how serious we are about it, not just in the business of making the right noises. This means being clear about the targets to be set in each area, the agency responsible for monitoring them and that they are enforceable. Only through clarity, accountability and enforceability in all the relevant areas can we show that we are serious. The question, of course, is whether the Bill as it now stands provides that. It is clear from the speeches this afternoon that there are many ways in which it needs to be tightened up. One example is the need for interim as well as long-term targets; and crucial points were made by the noble Lords, Lord Anderson of Ipswich and Lord Krebs.

It is quite clear that we have plenty of monitoring and a range of agencies dealing with environmental issues, but they are failing badly. You could take any one of a dozen areas: the quality of bathing water in this country has always been poor by European standards and last year it was the worst of all; whereas other countries including east European ones have improved in recent years, ours have failed to keep step. This is linked to another problem, the quality of river water, as mentioned by so many of your Lordships. Since 2019, raw sewage has been dumped into our rivers on more than 20,000 occasions, with millions of tonnes going back on to our beaches. Or take the state of our trees. Ash dieback is absolutely devastating our ash trees from one coast to the other with significant blight on our oaks, chestnuts and other trees. Or there is the failure of our tree-planting programme. The Committee on Climate Change has said that we need to raise our current 3% forest cover to 17% by 2050 if we are to have any chance of meeting our climate goals. That may need to be increased further if the Government continue to miss other targets along the way. At the moment the Government are missing their tree-planting targets by 40 years; if we continue at this paltry rate of tree planting, the Government's own 2050 targets will not be met until 2091. Finally, take air pollution. In 2020 the UK was ranked 92nd for air quality out of 104 countries—as a result of poor air quality, people suffer ill health and die.

The good news is that, in all these areas, there is now monitoring by a range of independent and official bodies. We have the indicators; what we lack are really effective systems of accountability and enforceability. I believe that the Bill gives us an invaluable opportunity to ensure that, in the future, we will have these systems, and I will be supporting a range of amendments to that effect.

7.25 pm

Baroness Redfern (Con) [V]: My Lords, I warmly welcome the opportunity to take part in this debate in support of restoring our natural habitats and increasing biodiversity through this wide-ranging and ambitious Bill, which I also welcome.

First, I endorse the proposal to establish a new independent office for environmental protection to enforce environmental law, making sure targets set are actioned. The goal is to leave the environment in a better place for future generations—not just greener, but having built indestructible steps for the protection of our environment. In setting targets within this framework, the Government will be able to clearly

[Baroness Redfern]
demonstrate the annual improvement progress, as well as to establish a review mechanism every five years. In the Bill, great emphasis is placed on tackling waste and demonstrating how the Government will work and consult more closely with manufacturers, who are ultimately responsible for the cost of disposing of their used packaging, and how the Government will support local authorities in helping them to create a more consistent approach to recycling from one authority to another. It has been demonstrated over many months that more collaboration is needed to stop confused messages being given to the public so that they can play their part, and to empower our citizens to continue to support the recycling chain, helping the country to reach the target of eliminating all avoidable waste by 2050. Locked in too is the Government's responsibility to prevent the export of plastic waste around the world, which we all very much welcome.

Secondly, we know that new trees, woodlands and forests are needed in helping to reduce flood risk as well as enhancing the countryside so that we can all enjoy and experience it as we walk and admire nature, which benefits our well-being. Our horticultural sector must also be supported in its challenge to increase tree production and maintain high levels of biosecurity, ensuring that the UK trees we plant will be healthy and resilient to the impacts of changing climate and increasing threats from pests and diseases. This includes the creation of three new community forests, creating 6,000 hectares of new woodland by 2025, adding to the 500 hectares already planted in the last year. With all these new measures, the expansion of tree planting will form a central pillar to enable reaching net-zero emissions by 2050, and so that more green jobs can be created in the UK forestry and nursery sectors.

Thirdly, the Bill highlights the importance attached to improved management of water resources, halting discharges of sewage into our rivers to protect our waterways. As we know, we are experiencing much greater rainfall, and urgent action is required from water companies—which need to upgrade their facilities in the short term to accelerate progress on storm overflows—to address and improve our environment in the light of the climate change agenda. We need evidence of monitoring from the storm overflows task force to show how it is working now in reducing the frequency and volumes of sewage discharged into our watercourses and how that evidence will feed into the Government's proposal to publish a plan by September 2022. Water companies are to publish data on an annual basis, which is to be welcomed. The general public also have to play their part in making sure they keep their drains clear of unwanted items entering the system, as water quality data shows that urgent action is needed. We must go further and faster.

Finally, I will touch on the recognition and the importance of both upland and lowland peat-lands. I look forward to hearing more about the Government's new peat action plan. As we know, peat-lands play a large and vital role in trapping carbon and any damage occurring can result in emitting carbon dioxide into the atmosphere, so the sale of peat products must end soon. We must remember that they are our largest terrestrial carbon store and a haven for rare wildlife. We need more restrictions on the burning of heather on blanket bog, which, backed up by good regulation, will reduce the risk of wildfire outbreaks. The proposals set out in the Bill will address restoration and protection measures and help repair habitats and support wildlife in their fightback in this green agenda, which I warmly welcome.

7.30 pm

The Lord Bishop of Salisbury (Valedictory Speech): My Lords, I have not been in the House in person since the first week of February. Sitting on the Front Bench earlier with the right reverend Prelate the Bishop of Lincoln, I found myself wondering whether both of us had misjudged the timing of our retirements. I have led on the environment for the Church of England for seven years and have been a Member of the House for six. It has been a privilege as well as a responsibility and I am grateful to noble Lords who have spoken kindly of what has been achieved; of course, it could never be enough.

With an eye towards retirement, I had thought that last year, 2020, would have provided a good conclusion, with the Lambeth Conference of Bishops from the Anglican Communion, COP 26 and this Environment Bill. All were postponed, so I find myself standing for the last time in this House without the prospect of being able to engage in the detailed scrutiny and revision that will make what is, in many ways, a good Bill better. Of course, my colleagues will contribute, as the right reverend Prelate the Bishop of Oxford has already. I thank the Minister for meeting the Bishops in preparation for this debate.

The care of creation is an important theme for Christians and all faith communities, but young people repeatedly say that we are not doing enough. At the last General Synod in person before the pandemic, a motion I proposed was amended for the Church of England to aim for net zero by 2030. I resisted it unsuccessfully. Those making the amendment said that we have to respond to the climate emergency and pick up the pace of our own change. This is complicated and there is a big difference in temperament between realists and prophets. The impact of that vote, however, has been to energise the Church of England in a new way and we are working towards the 2030 target with more urgent realism.

I say all this because, while I welcome the Bill, in a Parliament that has recognised the climate emergency, the Government are nothing like ambitious enough. We need to make the most of this opportunity to replace EU legislation and exceed its ambition and effectiveness in addressing fundamental issues of the environment and about the way we live. It matters a great deal that we address the role of the OEP and bottom out its relationship with the Government and the excellent Climate Change Committee, and that we establish how targets will be set.

The Bill ought to shape the work of every government department. Individuals make choices within the framework of legislation which makes the market. The Bill will and ought to shape the way we live now, not just in the middle distance and long-term future. This is a time of enormous change. We can be encouraged by the scale of changes in our behaviour in response to

the pandemic and daunted that a similar scale of change is needed every year to 2030 if we are to meet the 2050 target for carbon neutrality of the Paris Agreement.

There is an obvious spiritual dimension to the Bill. Gus Speth, a scientist who used to be the director of the Natural Resources Defense Council in the United States, said:

> "I used to think that top environmental problems were biodiversity loss, ecosystem collapse and climate change. I thought that thirty years of good science could address these problems. I was wrong. The top environmental problems are selfishness, greed and apathy, and to deal with these we need a cultural and spiritual transformation. And we scientists don't know how to do that."

Politicians, or any of us alone, cannot do that either.

Last September, Christiana Figueres showed the bishops a cartoon, which has since become well known, of a series of increasingly large waves crashing in on a small, urban shore: the pandemic, the economy, the climate and the environment. Although each needs to be addressed in its own terms, Pope Francis is right to see them as a single piece and as a challenge to the way we understand ourselves in relation to God, one another and the whole creation. The world's faiths are all a resource for the way in which we live together in this one room of God's creation. In our ecumenism, we have to pay attention to the economy—helpfully understood in the way of the Dasgupta review—and to the laws, ecology and wisdom of the house.

We cannot depend on techno-optimism to dig us out of a hole and we will need to answer questions about restraint. What is enough? We cannot continue to consume as we do. A new creativity is needed. There are opportunities for the UK to exercise leadership in our hosting of the G7, this week, and COP 26 in November. The big lesson of the pandemic is that we are local and global, and that in the existential issues we face no one is safe until everyone is safe. The golden rule of every religion and philosophical tradition is to do to others as we would have them do to us; it is enlightened self-interest. That has implications for the global vaccination programme and for overseas aid.

The Bill addresses the legislative framework for our care of the environment but what underlies it is the way we human beings see ourselves. In the diocese of Salisbury, which is one of the most ancient settled landscapes in Europe and has a wonderful geology hundreds of millions of years old, this bishop knows something about the humility needed in our care of the earth, as well as the creative wisdom and ambition that has given such progress to human well-being. Most people want to do the right thing. We need a legislative framework that will help us to do so, and courageous politicians capable of seeing the need for new-world thinking in the light of what we are learning from our present experience.

It has been a privilege to make a small contribution to the workings of this House and to pray for this one small room in God's big house. I thank your Lordships for your purposeful and expert collaboration and companionship. I thank the staff of the House for their unfailing helpfulness and courteousness, and the former and present Lord Speakers and their deputies. I wish your Lordships well in your consideration of this crucial Bill and will continue to pray for you in all your deliberations.

The Deputy Speaker (Lord Lexden) (Con): I am sure the House would wish me to express thanks and best wishes to the right reverend Prelate. I call the next speaker, Baroness McIntosh of Pickering.

7.38 pm

Baroness McIntosh of Pickering (Con): My Lords, I am delighted to speak in this debate but, more especially, to follow the right reverend Prelate. As we joined the House more or less at the same time, I have watched with admiration his excellent contributions and the leadership he has shown. I speak as a member of the Rural Affairs Group of the Church of England.

Once again, today the right reverend Prelate has set out the key aspects of concern in the Bill, not just to those of faith but to all noble Lords and to the general public, while identifying its spiritual elements too. I would add in passing that I think all owe a debt of gratitude to his leadership and pastoral care in the dreadful incidents of poisoning in his diocese. Before that, he served with great distinction as vicar of St Martin-in-the-Fields from 1995 to 2011. I am sure that those there will be forever grateful. I pay tribute to his work at that time in the restoration project, where he initiated and led a £36 million buildings renewal project, which will be a lasting legacy of his tireless work. The House of Lords has benefited from his wise counsel and his championing of nature and the environment. We all wish him every possible future happiness and hope that he will continue the good fight for nature and the environment.

I refer to my other interests as listed in the register. Also, I am vice-president of the Association of Drainage Authorities, co-chair of the APPG on water, and had the privilege of chairing the Environment Committee in the other place.

The Bill before us this afternoon is ambitious in some respects but has some surprising omissions. I would like to focus on farming, flooding and the marine environment. The link to the Agriculture Bill and especially the environmental land management scheme is obviously crucial to the Bill before us today. Farmers will no longer be encouraged to produce food but will have to compete for limited funds with other green activities. I ask my noble friend to consider, in summing up today, what the implications of the Bill will be for tenant farmers and smallholdings, being mindful of the fact that tenant farmers account for over 40% of the total in areas such as North Yorkshire and many other rural parts of the country. I invite him also to consider the implications for hill farming, which is heavily dependent on livestock production—farmers are guardians of the countryside—and improving food security and self-sufficiency in food production as well as sustainable farming.

There are inevitably implications for food affordability and potentially food poverty. The Bill represents a fundamental change to farming since the CAP was originally created. It begs the question: to what extent will the concept of natural capital be developed so that the Government reward people for owning and

[Baroness McIntosh of Pickering]
working the assets of the countryside, as well as for taking the economic risk, which should also be recognised? What regard will be had to the criteria used in the *Health and Harmony* White Paper, including landscape, rural development and tourism, as well as the implications of the planning Bill, which so many other noble Lords have identified during the debate? Will it be possible to use the public good concept to encourage natural flood defences such as Pickering's Slowing the Flow project, and sustainable drainage? I urge my noble friend and the Government to be realistic, however, about growing trees, doing so only where it is appropriate. In short, there is no one-size-fits-all solution for the natural environment and biodiversity game.

Is my noble friend aware that there are certain implications of the Reservoirs Acts 1968 and 1975, especially the de minimis rule, that may prevent the temporary storage of floodwater on farmland, and which may be considered under the Bill? There are many issues arising in respect of surface water flooding, addressed in the lead-up to the Pitt review of 2007, but in many instances these are still not resolved. I highlight one: the ending of the automatic right to connect to major new housing developments, which could and should so easily be addressed through this Bill. It is important that we understand what the role and status of environmental improvement plans will be, to which I would also add the greater use of catchment management schemes.

I entirely endorse what the noble Lord, Lord Anderson of Ipswich, said about the need for the OEP to be independent in order to uphold environmental standards and to have proper rights of enforcement. I had the privilege to practise alongside Eleanor Sharpston, who served with great distinction both in the Belmont European Community Law Office, where we practised, and as the last Advocate-General serving for this country.

The Government need to explain what the relationship will be between the OEP in England and that in Scotland and the other devolved nations. Surely, the guidance in Clause 24 smacks potentially of micromanaging what the work of the OEP should be. Why has the marine environment not been included? I also ask my noble friend to consider the impact on the environment of wind farms, including the cumulative effect of both their operation and their construction. How will these multifarious new wind farms operate alongside other users of these seas, such as fisheries and shipping? There is a lack of research on these impacts, which needs to be addressed.

I refer in passing to due diligence, producer responsibility and managing disposal of waste, which we can explore during the passage of the Bill. As regards amendments, I ask my noble friend to consider whether marine life and the marine environment should be included specifically within the remit of the Bill. Given the future development and stepping-up of wind farms offshore, I ask whether the research I have referred to will be undertaken. I ask him also to consider the implications for water companies of their responsibilities arising under the Bill. How will this sit with the targets set out in the Bill and the constraints of the five-year investment price review period?

Finally, given that the public funds for public goods approach will lead to a sea change in how activities are to be rewarded, what assessment have the Government made of the impact of ELMS in rewarding green activities rather than food production? Will it mean that we become less self-sufficient in food production and end up importing more food? If so, is this a goal that the Government are actively pursuing?

7.46 pm

The Duke of Wellington (CB) [V]: My Lords, I declare my interests as in the register. I also add my appreciation of the speech of the right reverend Prelate the Bishop of Salisbury.

I wish to speak about Part 5 of the Bill, in particular water quality in our rivers. This has been mentioned by a number of noble Lords, which I welcome. Although much has been done in recent years to clean up beaches around the coastlines of the United Kingdom, mainly under pressure from the EU, the state of our rivers remains very poor. As the noble Lord, Lord Cameron, has already said, only 14% of the rivers in England and Wales achieve good ecological status under the European standard. In other words, 86% do not. Not one of the rivers in England and Wales has achieved an acceptable standard for the level of chemical pollutants.

These statistics are shameful and embarrassing, and I am certain that the people of this country would wish our rivers to be cleaned up. Now that we are no longer in the European Union, we are often told that we are free to set our own higher standards, so it is surprising that Ministers have not set as a higher priority the absolute determination to achieve good ecological status for all our rivers.

I have today introduced a Private Member's Bill seeking to prevent discharge of raw, untreated sewage into our river systems. The Bill derived from one in the other place introduced by the right honourable Philip Dunne, Member of Parliament for Ludlow, to whom I of course pay tribute. The Minister stated at the beginning of the debate that the Government would table amendments to this Bill to require the Secretary of State to lay before Parliament by September next year a plan to reduce such discharges, but I suggest that a plan to reduce discharges over time is simply not enough. We must seek, surely, to eliminate them. I recognise that, of course, in an extreme flood it is possible for raw sewage to enter a river system, but it should definitely not happen during normal periods of rainfall.

In March, the Environment Agency reported, with surprising complacency, that raw, untreated sewage was discharged into English rivers 403,000 times during 2020. In Wales, Welsh Water reported 104,000 discharges. So between the two nations, there were more than half a million discharges, or over 1,350 every day. These are truly shocking figures. They do not receive the publicity they deserve—although there was an excellent BBC "Panorama" programme a few weeks ago—and I am sure that much of the population is simply unaware of the seriousness of the situation.

The Environment Minister in the other place, Rebecca Pow—whom I much admire—said in a debate on the Bill on 26 May:

"It is essential that we seize this opportunity to set our ambitions high and take action to deliver them."—[*Official Report*, Commons, 26/5/21; col. 382.]

Given the undoubted determination of the Government to leave the country in a better state for future generations, cleaning up our rivers must be a high priority, along, of course, with the target of achieving net-zero carbon emissions by 2050. I, and other noble Lords, will be tabling amendments to the Bill to require the Secretary of State to be more ambitious in cleaning the rivers by ending discharges of sewage and requiring the water companies and local authorities to upgrade the infrastructure for the handling of domestic and industrial waste. Many of the systems were built with insufficient capacity for the extra houses and commercial and industrial buildings added in recent decades. I accept that, for the water companies which are responsible for processing the waste, this is a large, hidden liability. Investment will be considerable and will probably have to be paid for by a combination of government grants, long-term borrowing by the water companies, a reduction in dividend payments and higher charges for all the properties connected to the sewerage systems.

All this is in somewhat stark contrast to the way that farmers are treated. They have been required to eliminate any leakage of silage effluent or other farm waste into water courses. Farmers cannot break the rules, yet water companies are allowed to make discharges continuously and seem to escape without penalty. The polluter pays principle does not seem to apply to water companies. I support the Bill, but I hope that Ministers will be prepared to make the cleansing of our rivers a much higher priority.

7.52 pm

Lord Cormack (Con): My Lords, I am delighted to follow my noble friend the Duke of Wellington in giving support to his Bill. How appropriate it is that he should introduce it today. Perhaps it is a pity that it was not on 18 June, but one cannot have everything. I also echo the eloquent words of my noble friend Lady McIntosh of Pickering and wish the right reverend Prelate every possible happiness and success in what I trust will be a long, active and healthy retirement. I am slightly surprised that such a young man should retire.

The most chilling words in this debate were uttered by Lord Krebs: "We have squeezed nature out of its home." When he spoke those words, my mind flashed back to the mid-1940s, in particular 1947. I had been given a bicycle for Christmas and we had that long, terrible winter. In the summer, my father took me into the Lincolnshire Wolds. It is glorious countryside; if your Lordships do not know it, I warmly commend it to them. One particular day, we counted two things: cars and skylarks. There were more of the latter than the former. What a fall there has been.

The noble Lord, Lord Lilley, made the entirely correct point that ours is largely a man-made landscape—and it is a wonderful one. When I wrote a book called *Heritage in Danger* in 1976, I included our landscape as part of the heritage that was in danger. I talked about the thousands of miles of hedgerows that had been torn out. So I warm very much to the plea made by the noble Lord, Lord Carrington, my noble friend Lord Trenchard and the noble Lord, Lord Redesdale, who was the first to introduce this subject today. I beg my noble friend on the Front Bench to ensure that heritage is indeed included in the Bill before it reaches the statute book.

Great buildings are part of our heritage, and I am particularly concerned in this year, following the pandemic, about the added dangers facing our country churches. The right reverend Prelate will have many in his diocese, and unless he is exceptionally fortunate, some of them may close and not open again. Certainly, in Lincolnshire a number are in real danger. Very often the focal point of the landscape, the centre of the village, is the village church, or its tower or spire. The opportunity offered by a fairly all-embracing environment Bill must include heritage. I declare an interest as founder and president of the All-Party Arts and Heritage Group, which has been on the go since 1974. I am also vice-president of the Lincolnshire Churches Trust and was president of Staffordshire Historic Churches Trust and vice-president of the National Churches Trust, so this is something very close indeed to my heart, but to the hearts of many others as well. Whether they are Christian or not, the village church is very important in their lives. I hope very much that my noble friend ensures that heritage is included.

There is a danger that many of this Bill's good intentions will be wrecked and sabotaged by the Government's planning policy. I am deeply unhappy that local people will have little or no say in major developments. We heard of one earlier today: a wilding project in great danger because 3,500 houses are to be built on the border. It is crucial that when we look at planning, we look at distribution—where the new homes are built—and the quality of the homes. I talked about our churches and intrinsically their quality, but there is a very good example from a very high place—the Prince of Wales and Poundbury—where a new development has been planned and executed on a human scale, and the individual dwellings are of some beauty and will be treasured and lived in and loved, one hopes, for centuries. Do not let the good intentions of the Environment Bill be sabotaged by an unthinking planning Bill.

7.58 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Cormack, and I pay tribute to the right reverend Prelate the Bishop of Salisbury, as he bids farewell to your Lordships' House. I wish him a long and happy retirement.

This Environment Bill is welcome, but it has certain limitations. It will establish the new environmental governance system for England and Northern Ireland, including the new oversight body, the office for environmental protection, which I would like to see as independent. Later, I will concentrate on the Northern Ireland aspects, which must be toughened up.

This Environment Bill presents a high-powered agenda when matched against what has been happening to the environment. The dismal decline of our nature, which many noble Lords have already spoken about, has been well documented, with the UK at the bottom of

[Baroness Ritchie of Downpatrick]
the G7 league table for how much biodiversity it has left. Air quality and water, mammal and flora quality in our rivers have been impacted on. Litter is wreaking havoc on our countryside and wildlife, killing mammals and choking our seas with plastics. That is the stark nature of our environment, which needs to be preserved. The inhumanity of businesses and people, including many of us, has to be curtailed in some way if we want to protect our planet earth. The Bill needs to be improved to reflect the need to drive environmental improvement through binding interim targets and stronger delivery plans, as well as to provide that effective oversight of environmental law and progress by strengthening the independence and enforcement function of the office for environmental protection.

I am grateful to the RSPB and Greener UK for their briefing on the Northern Ireland aspects of the Bill. Specifically, Schedule 2 includes provision for environmental improvement plans and a policy statement on environmental protection in Northern Ireland. These provisions are broadly parallel to those in Part 1 that relate to England, albeit with some technical differences to reflect the different legal and policy contexts.

However, there are two key omissions that need to be corrected. First, there is no requirement to set plans for a specified time. Secondly, there is no duty or power on DAERA, the Northern Ireland department, to set and meet legally binding targets. In his wind-up, can the Minister specify why this is the case and whether work is continuing with the Northern Ireland Executive and DAERA? What are his prospects in terms of seeing that corrected?

My other questions in relation to the Environment Bill and Northern Ireland are as follows. What is the timescale for appointing the first Northern Ireland member of the board of the OEP? What resource is to be allocated to the OEP to carry out its statutory functions in Northern Ireland, including to ensure sufficient staff expertise on Northern Ireland law, policy and science? How will the OEP co-operate with the European Commission on matters of environmental law included in the Northern Ireland protocol?

Those legally binding targets are needed to help us to halt the significant loss of biodiversity in Northern Ireland. That exclusion from Schedule 2 of provisions akin to those in Clauses 1 to 6 is a fundamental omission that will hinder the protection and improvement of Northern Ireland's environment. Therefore, I would welcome clarity from the Minister today on when the consultation on Northern Ireland's environmental principles policy statement will be published. It must provide guidance on how the principles relate to the Northern Ireland protocol.

I look forward to answers to these pertinent questions from the Minister. I would like him to specify in his wind-up whether discussions are still ongoing with the Minister for DAERA and the Northern Ireland Executive. If so, what has been the response? Does the Minister have undertakings from the DAERA Minister and the Northern Ireland Executive that those commitments have already been made in relation to the resources to be allocated to the OEP and the OEP member for Northern Ireland?

There is no doubt that this is an important piece of environmental legislation that grants Ministers many powers, some of which are widely cast and would allow future Governments to change important laws on habitat protection, water quality and chemicals safety through regulation. Some of these do not yet have appropriate controls to ensure that they are always pursued transparently, are subject to consultation and further, rather than undermine, current levels of environmental protection.

8.04 pm

Lord De Mauley (Con) [V]: My Lords, only a few days ago, I was delighted to hear a speech given by my right honourable friend the Secretary of State for Environment, Food and Rural Affairs on restoring nature. In it, he lamented the failures of the past 50 years and promised a new approach, announcing plans for

"creative public policy thinking that can deliver results"

and moving

"the emphasis away from processes that simply moderated the pace of nature's decline".

Of particular note is this comment from my right honourable friend:

"In Natural England, we have exceptional technical expertise on habitats and our protected sites but this precious expertise is often distracted by highly prescriptive legal processes. I would like to get to a position where our talented staff in Natural England have fewer distractions and are able to prioritise the interventions that will make a big difference. I want them to have more freedom to exercise judgment rather than being stewards for a process."

I was also fascinated to listen to the words of my noble friend Lord Ridley earlier. I propose to continue his theme. Biodiversity net gain is a particularly interesting concept to enable achievement of the Secretary of State's ambition, as set out in a Written Ministerial Statement of 18 May,

"to deliver a regulatory framework that is fit for purpose in driving forward our domestic ambitions … We need a revised approach to deliver this new species abundance target and better support iconic and much-loved native species".—[*Official Report*, Commons, 18/5/21; col. 45WS.]

I propose to focus my remarks on Clauses 92 to 94 and Schedule 14—the part dealing with biodiversity net gain, which I warmly welcome.

Noble Lords may be interested in a case study. As set out in the register of interests, I have an interest in a commercially operated lake in the Cotswold Water Park, as well as other land nearby. Land managers were notified on 7 January that an old 1994 SSSI of 135 hectares was being enlarged to 15 times its size to include all the Cotswold Water Park's 177 lakes—a total of 2,074 hectares.

I have no doubt that all those managing land there agree that it is a special place for nature and are willing to work with Natural England to preserve and enhance nature and biodiversity. Indeed, for many years, many of us have welcomed the BTO's volunteers, who have counted the birds there and contributed in many other ways. However, what is relevant to the provisions of the Bill on biodiversity net gain is that there is no doubt that active management will be needed to preserve and enhance the habitat.

Indeed, that is acknowledged by Natural England in its "views on management", which accompanied the notification. For example, it says:

> "For the more sensitive pioneer species suitable habitat conditions require regular management of the early successional stage … These habitats may require some active management … Exposed areas of bare ground on islands should be maintained to provide nesting sites".

Those are just examples. Much more can and should be done if we are to improve matters for nature. These things will not happen on their own; they will cost money.

Habitat banks for the purposes of biodiversity net gain credits under the Bill offer much promise in that regard. However—I would be grateful if the Minister could check this and write to me—we are advised that Natural England, as a matter of policy, specifically denies land managers the ability to take advantage of the opportunities presented by biodiversity net gain and, I think, ELMS, in respect of land subject to an SSSI notification.

One can understand that, perhaps for pristine wilderness, that may be appropriate, but for a habitat created by human intervention and under active management to preserve its otherwise transient state, it does not sound very sensible. It rather sounds as if, on the one hand, Natural England is telling us that active management is necessary while, on the other hand, it is removing the very tool that the Government are even now fashioning to enable us to fund that necessary active management.

Rather shockingly, it transpires that of the lakes designated in 1994, every one is, in Natural England's own assessment, at "unfavourable declining" status. However, the large areas of the Cotswold Water Park that had not until now been so designated are, again at Natural England's own assessment, in favourable conservation condition. This is in spite of—or, it might be argued, because of—activities that have gone on for years, for which Natural England now insists its consent is obtained.

Unless there is a clear and coherent plan to overcome the historic failures, it is unreasonable to repeat the mistakes of the past on a much larger scale, especially when there are now better options available that provide for conservation and enhancement. I do not have time to talk about a number of other controversial matters about the process that has been followed by Natural England here. Suffice it to say, there are several, and they include serious legal errors.

The Bill contemplates innovative mechanisms for true, sustainable development, such as the opportunities emerging from biodiversity net gain as part of development and habitat banks for offsetting. In his speech, the Secretary of State said that if we are to

> "reverse the downward trend we have seen in recent decades, we need to change our approach,"

and we need to change it right now.

I particularly welcome the biodiversity net gain provisions of the Environment Bill. I hope that sense will prevail and my right honourable friend's ambition that Natural England has fewer distractions, is able to prioritise the interventions that will make a big difference and has more freedom to exercise judgment—rather than be a steward for a process—will come to pass.

The Deputy Speaker (The Earl of Kinnoull) (CB): The noble Earl, Lord Kinnoull, has withdrawn, and I call the noble Lord, Lord Duncan of Springbank.

8.11 pm

Lord Duncan of Springbank (Con): I thank the noble Earl, Lord Kinnoull, for withdrawing and allowing me to speak a little earlier. I draw attention to my entries in the register concerning forestry, energy and wider environmental concerns. I want to touch upon three issues—the independence of the office for environmental protection, territorial co-operation, and the wider question of environmental review versus judicial review.

Let me begin at the beginning. The real question is: does the OEP have teeth or just flashy dentures? That is yet to be clearly resolved. As a former Northern Ireland Minister, I am responsible for certain public bodies there. The public service ombudsman was set out in law, not subject to the direction or control of a Minister. It was a genuinely independent body set out in statute. An obligation to be impartial is useful, but it is not the same as statutory independence. We must recognise the difference and ask the question: why are we in a situation in which impartiality is our expected and accepted situation, rather than independence?

As a former Member of the European Parliament, I recognise how important the infraction proceedings undertaken by the European Commission were to bring about change, not just by their intervention but by the fear and threat the intervention can represent. The absence of that independence may yet be a detriment to our ability to deliver the noble causes this Bill sets out. A number of noble Lords have touched upon them—as part of the Defra family, there is a question of how the Secretary of State may offer guidance and how that guidance must be taken into account by that independent office. Those elements strike at the heart of independence. We need to resolve them; I think clarification is probably all that is required, but it is required.

The notion of territorial co-operation is also important in this regard. As a former Minister in the three territorial offices of the United Kingdom, it became clear to me that the green groups in each would have preferred a common UK position to address the issues post Brexit. We do not have that. What we have instead—the Bill is not wholly clear in this area—is how we create legislative consent mechanisms with each of the legislative assemblies and nations in order to bring about co-operation. But as we all know, on many of these issues, borders are meaningless, whether in terms of the archipelago we inhabit, its biogeography, the seas that surround us and the air above us—each requires a common solution and approach. It will be very challenging to secure that if, on each occasion, we need to secure legislative consent Motions to bring them about. We need to find a way of exploring this and finding a mechanism that works to the benefit of

[Lord Duncan of Springbank]
all. I think we all share the same common ambition and common cause, but we need to be conscious that the individual Parliaments may have very different approaches. We should recognise that at the outset.

My final point concerns the notion of an environmental review versus a judicial review. Several noble and noble and learned Lords have spoken on this issue and I will not seek to echo their points, but they are valid. I shall touch on the views of the Bingham Centre on this. A judicial review is important because as it begins to explore the issues, the outcome of that exploration voids the law that it casts down, whereas an environmental review simply offers an exploration and the iniquity of the law which is identified is not voided—it can continue. Justifications are given for that in the Bill, but to me those justifications look a little creepy, if I can be frank, because they basically allow a situation in which the individuals affected can find themselves able to assert that they are negatively affected and therefore can continue with an unlawful act in a situation in which that unlawful act will have an environmental consequence. The environmental consequence must be paramount in these situations because that is why we are creating the office for environmental protection. If the environment is not paramount, what is the office for?

That begs the question, if we are looking at creating an environmental review rather than a judicial review, whether the resultant environmental review is not as powerful as a judicial review. We need to consider what that means in terms of the "would be" concerns that an operator in this area should be alert to, conscious of the risk that they face in that they could be found in breach and unable to continue but could have their situation recognised in law and be fined for their behaviour, as would happen in the European Commission through the infraction proceedings. We need to look at this again because we are not quite there yet.

Let me conclude with two points. First, this is a good Bill that does good things. I recognise the passion and the commitment of the Minister and indeed of my noble friend Lady Bloomfield. Both are passionate advocates of environmental protection and environmental reform, and I stand shoulder to shoulder with them. The points I have raised today I will take up in the future because I think that they need to be considered, and I would very much welcome an opportunity to discuss these matters further. I hope that Ministers will take them in the spirit in which they are given because I believe that this House is ready to be assured that our environmental credentials are second to none as we approach the glidepath to the COP 26 gathering and the other international gatherings that will take place on our soil. We have an opportunity to be leaders—let us embrace that.

8.18 pm

Baroness Sheehan (LD): My Lords, I pay tribute to the speech that the noble Lord, Lord Duncan of Springbank, has just made. It is a privilege to follow him. I agree with many of his points, some of which will be echoed in my speech, but maybe not quite so eloquently.

The Bill has much that is positive in its intent, but I join other noble Lords in expressing some disquiet. The list is not exhaustive, but these are some of my concerns. First, there are important gaps in the Bill that are to be filled by secondary legislation, thus diminishing the role of Parliament and limiting scrutiny. The Delegated Powers and Regulatory Reform Committee has just published its report on the Bill. It contains 110 delegated powers, 48 of which allow for the affirmative procedure. This, according to the report, is a comparatively large number. It highlights a particular example, that of the process by which a biodiversity metric will be produced and published by the Secretary of State with input from ecology experts but subject to no parliamentary procedure at all. The biodiversity metric will shape our landscape for probably several generations, so Parliament must be allowed a say.

My second concern is about the process by which the office for environmental protection will define its strategy and the influence the Secretary of State will wield, which will undermine its independence, as will the power of appointment to its executive body. I am also concerned about the rather unusual enforcement mechanisms it will be asked to operate under, which risk emasculating its ability to hold offenders to account.

The rule of law principle of legality requires there to be an effective mechanism for courts to provide a remedy where there has been a breach of the law. However, the noble Lord, Lord Anderson, has spoken persuasively and with great authority and concern about the issues around the remedies and sanctions available through the environmental review process—which undermines the polluter pays principle to boot. I hope his discussions with the Government will be fruitful. As currently drafted, the OEP will be inferior as an enforcement body to the regime that existed when we were members of the EU. The European Commission, with ample resources to monitor, evaluate and instigate rigorous investigations, was backed up by the steel of the European Court of Justice and its ability to impose meaningful fines on transgressors.

We saw some progress, but it is going to be an ongoing process. There are real fears that we will regress, particularly when it comes to the air we breathe. EU standards on air pollution have historically not been met, particularly on the concentration of PM2.5, which causes so many premature deaths. It is not clear that the Bill is signalling the urgent action needed because we do not yet know what the Government will offer. Can the Minister assure us that, as well as an ambitious target, there will be a clear strategy to meet that target, including a clear indication of the role that local and regional authorities will play and how they will be funded?

I am going to move on to an issue raised by a number of civil society organisations on due diligence, deforestation and human rights. I thank the Corporate Justice Coalition for its briefing. Deforestation is a leading cause of carbon dioxide emissions globally, second only to burning fossil fuels. Some 80% of this deforestation, particularly in tropical regions, is due to land and tree clearance, sometimes forcibly or by deceit, to make way for grazing animals and growing crops such as soya, palm oil and cocoa—so-called

forest risk commodities. I commend the Minister for his championing of these issues, echoing the Liberal Democrats' ambitions.

The Global Resource Initiative Taskforce was commissioned by BEIS, Defra and the FCDO to consider actions that the UK can take to make its international supply chains more environmentally sustainable. In its report of March 2020, it specifically recommended that the UK Government urgently introduce a combined, mandatory human rights and environmental due diligence approach to forest risk commodities. By happy coincidence, the landmark United Nations guiding principles on business and human rights, which first outlined the concept of human rights due diligence, celebrates its 10th anniversary this month. The UK's first due diligence process should have been a cause for celebration, but for the fact that there is no mention whatever of human rights. This is both a practical and moral oversight.

Only this year, a report from the UN Food and Agriculture Organization outlined that if the customary rights to land, territories and resources of indigenous peoples and forest communities are respected, and they consent to activity happening on their lands, the likelihood of deforestation, ecosystem degradation and biodiversity loss is much reduced. Do the Government recognise that human rights, environmental destruction and climate change are inextricably linked? If so, why have the human rights of indigenous people, the custodians of these precious resources, received no mention whatever in the due diligence system on the use of forest risk commodities, as outlined in Schedule 16?

8.25 pm

Lord Berkeley (Lab) [V]: My Lords, I welcome the Bill, as many other noble Lords have done, but it clearly needs quite a lot of improvement, which I am sure we will be able to do in the subsequent stages. I shall start by commenting on the difference, raised by many noble Lords, including my noble friend Lord Whitty and the noble Baroness, Lady Sheehan, between the EU structure that we used to have and the present Bill. To sum it up, I found from working on transport and the environment from the industry point of view that the difference was that the EU was seen to be totally independent of the Government and had teeth. Those are the two things that we need to look at in discussing the Bill.

The Bill is full of targets, which is a good thing. As many noble Lords have said, they are very wide-ranging and welcome. I believe that many of them need to be legally binding, but we also need to talk about monitoring and enforcement, and all that needs resources. It is not just the targets in this Bill; many other parts across government need to have some kind of connection if we are going to achieve the overall targets that everybody wants, one of which is net-zero carbon.

I shall cite one or two examples from the transport field. The first is biomass. Ministers occasionally say that if we have 100% biomass-fuelled airliners, we can fly as much as we do at the moment, but then somebody else has said that if you want that amount of biomass, every piece of cultivatable land in the world will have to grow biomass and therefore we will all starve. That is not a very good idea. Ditto the latest idea of having hydrogen powering everything. I am told that to create so many kilowatts of hydrogen, you need double the amount of electricity that you need if you use it to power whatever you are trying to do. We have to find solutions for all this. In his wonderful valedictory speech, the right reverend Prelate the Bishop of Salisbury mentioned a phrase that many people are frightened to mention: there will have to be some change of lifestyle.

The other example I shall give is from a debate we had a couple of weeks ago in your Lordships' House on electric scooters. I pointed out that by the end of this year there will be 1 million scooters operating illegally in this country and asked how the Minister would suggest that ensuring that these scooters do not go on the roads, cycleways or footpaths could be achieved without a massive increase in the number of people and the budget. I am afraid that Ministers tend to ignore the whole question of enforcement. They say that the allocation of funding is difficult, but it needs to be done if the law is to be respected, and that applies to many things in this Bill.

My other point relates to water contamination in the Chilterns caused by HS2, which the noble Lord, Lord Randall of Uxbridge, also raised. I am concerned about the non-disclosure agreements that people have to sign, which mean that all environmental data seems to be confidential. I am sure that many noble Lords would agree that environmental data does not need to be confidential. These poor people in the Chilterns could not even get the information they needed by making a freedom of information request, and they had to go to court. Of course, the documents have now come out saying that six public water suppliers may need additional treatments and asking who will pay for it. I have had similar problems trying to help the people of Wendover, a bit further up the line, get information out of the Government about why they will not talk about putting the railway in a tunnel rather than a viaduct. I have a little bit of experience with tunnelling, but it is still very difficult.

For me, the office for environmental protection needs many more teeth, as the noble Lord, Lord Duncan of Springbank, told us. I want it to be able to force government authorities to produce information, to take people to court, and to support judicial reviews and everything else which would make the concepts and principles in the Bill really work. If we do not do that, we are wasting our time, and it will just be a series of good words. I look forward to many more debates in the future stages of the Bill.

The Deputy Speaker (The Earl of Kinnoull) (CB): The noble Lord, Lord Curry of Kirkharle, and the noble Baroness, Lady Fookes, have withdrawn. I call the noble Earl, Lord Devon.

8.31 pm

The Earl of Devon (CB) [V]: My Lords, as we have heard throughout this thoughtful debate, this is an unprecedentedly significant piece of legislation with very lofty ambitions. Not only does it repatriate environmental policy, but it creates whole cloth the

[The Earl of Devon]
processes through which that policy is to be delivered. As a Devon farmer with interests in heritage landscape and a passion for the environment, I am desperate for this to be a success, but I am sensitive to its impact on existing land management practices and to the danger that complex new policies will be stillborn and ignored by land managers who do not understand them. As a partner at a law firm with a dedicated natural capital practice, I see first hand the practical challenges in implementing and enforcing these ambitions and the hurdles to be overcome when translating these worthy environmental goals into practice.

The Bill contains lots of policy and the long-term holistic approach is to be welcomed, but dangerous confusion remains. The interface between biodiversity net gain, local nature protection strategies, nitrate and phosphate prescriptions, environmental land management schemes, the sustainable farming initiative and the national tree strategy, to name just a few, is incredibly complex and very unclear. The hard-working folk at Defra need to ensure that the schemes are complementary and work smoothly alongside each other, or—[*Inaudible*]—and land managers will simply ignore them. Local land managers in particular should be consulted in the development of local nature strategies.

I echo the concern of the noble Lord, Lord Cormack, that there is a gaping and inexplicable hole where heritage should sit within the definition of the environment. Our country's landscape is entirely manmade, from the lakes to the Norfolk Broads. It is unthinkable to set policy for the natural environment without equally considering the manmade structures—the stone walls, levees, canals, embankments and farm buildings—that have brought this landscape into being and are crucial for its maintenance and cultural value. If manmade cultural assets are not recognised in environmental targets, annual reports and funding, this critical infrastructure will inevitably fail in the face of escalating climate crisis and extreme weather, and we will lose for ever the basic building blocks underpinning our natural environment.

The adoption of environmental principles is to be applauded, but they need to be understood and properly implemented. I note major concerns over the aggressive use by campaign groups of the precautionary principle. We have seen in recent months that well-funded campaign groups have taken to judicial review to frustrate the long-standing licensing and management of our natural environment, causing untold disruption to our biodiversity in a bid for high-profile scalps. Policy in this area must be developed by Defra in proper consultation with appropriate stakeholders, not by the courts.

Many farmers are concerned about the potential loss of the right to abstract water without compensation on the basis of environmental objectives rather than environmental damage—a right that already exists. While I agree that large water companies that have never needed their excessive abstraction rights could deservedly have them removed, farmers with more modest rights could be severely impacted. I speak as a farmer who pays for but currently does not use long-standing abstraction licences used decades ago for growing potatoes. We know that we need to diversify our agriculture, to move away from monoculture cereal farming and to grow more fruit and vegetables. This will need water abstraction, and the removal of such licences without compensation will threaten that ability to diversify.

I am a champion of access to and education about our natural environment, which is key to the success of this environmental revolution. Understanding the countryside and its use for well-being and social prescribing will the deliver real benefits that are so essential after this pandemic. We have heard much of Professor Dasgupta's excellent report, *The Economics of Biodiversity*. He extols the virtues of education as key to this success. When will the Government respond to Professor Dasgupta? I have asked this of the Minister three times now but have not yet had the courtesy of a response.

The professor also emphasises the need to price biodiversity as the key to creating a working market in ecosystem services. He recommends that the Office for National Statistics should set the basic pricing, as it is the only body capable of doing so. If no price is set, there is a danger that the desired market for biodiversity will be swamped by the well-developed and easily measured market for carbon. As we all know, this will not be good for our environment, to which thousands of hectares of acidic soft woods are testament.

The other key to the market for biodiversity is the conservation covenant—the ability to bind land to conservation commitments for years into the future. I learned as a young property barrister that these covenants simply do not work under English property law, as it is not possible to bind a successor in title with such commitments. The provisions of Part 7 therefore represent a major change in English property law and, if they do not work, the whole edifice will fail. Conservation covenant agreements need to be significant to those entering them, and I will be pursuing amendments to ensure that they are executed by deed rather than by simple contract. A complex 30-year commitment should not be able to be made on the back of a napkin.

We need stronger rules to avoid our centuries-old export of environmental degradation. Producer company legality is far too low a bar for importers and we need to ensure that all naturally derived materials imported into this country meet our own environmental standards, not those of a country with much lower standards. I agree with the noble Lord, Lord Duncan, that the office for environmental protection needs teeth, not flashy dentures. It has a crucial role to play and deserves both a budget and personnel that are independent if it is properly to hold the Government to account.

I look forward to working with the Minister and Peers across the House to improve the Bill and make a success of it. Finally, I congratulate in particular the noble Baronesses, Lady Jones and Lady Bennett, whose Green Party has done so much to make this issue front and centre of our global political discourse this important year.

8.37 pm

Lord Taylor of Holbeach (Con): My Lords, my interests are in the register; my family's interests as farmers, landowners and growers of bulbs and other horticultural crops are, I think, known to most noble

Lords. In my early days, I was much involved in various agricultural organisations—I am a liveryman of the Worshipful Company of Farmers and the Worshipful Company of Gardeners. But, more to the point, nearly 10 years ago now I was a Minister at Defra, handling environmental matters in this House, alongside my noble friend Lord Benyon, who was at that time a Member in another place. I think that he and I would agree that Defra and the Government have made much progress in moving the environment up the priority list over these 10 years. Indeed, the passion of the Minister, my noble friend Lord Goldsmith, in presenting the Bill, bears witness to that fact.

The Bill is about our lives on and our relationship with the planet that sustains us. Whether we are talking about climate change, the marine environment or other material issues such as food security, food quality or animal welfare, if we are to be successful, the Bill requires us to use a combination of science, engineering, skill and technology. It is part of a suite of Bills produced by Defra covering agriculture and fisheries.

I know there has been considerable impatience with the deferment of this Bill for consideration in the House of Commons. However, the Bill has benefited from the long period of scrutiny that it has received there. It has had the opportunity of discussion away from the Chamber and the presentation of amendments that have been accepted by the Government. This big, landmark Bill arrives here with full Explanatory Notes and, indeed, the impact assessment referred to earlier by my noble friend Lord Blencathra. All this means that its course through this House will be very well informed, but I have little doubt that it will receive considerable discussion here; the speeches have given evidence of that.

I belong to a group, including many who have spoken today, who are privileged to have lived the majority of their lives working in the countryside. The countryside is an important resource for the whole nation. I want to speak on behalf of all those who share that privilege and responsibility. Our discussions are bound to centre around the effective function of the office for environmental protection, which has been mentioned by several noble Lords. The operation of environmental improvement plans—on air pollution, water quality, water management—will be integral to the progress of the Bill. The noble Lord, Lord Framlingham, talked about trees in towns, woodlands and forests. We have talked about biodiversity, or nature, as my noble friend Lord Blencathra would prefer, and we know what this means. We have lost a great deal of biodiversity and nature in this country, and we need to engineer its return.

One thing I am rather disappointed has not been discussed is the sense of local space for all matters concerning local government, which is a delivery agency for much of what we require in environmental conservation. This applies to all government bodies, and government centrally too: finding local places for action is the most important and effective way of delivering, because the environment is about place if nothing else. I mentioned the privilege and responsibility of being entrusted with the small corner of the environment that is our farm. The ELM scheme set up by the Agriculture Act relies on trusting the farmer and the landowner. The noble Earl, Lord Devon, made clear that he believed we must provide for local governance of many of the environmental changes.

I spoke earlier about following the science. It tells us not just what to do, but how to do it while measuring, monitoring and recording the consequences of these actions; and so it is with the Bill. We need to rely on the science; that dynamic is reflected in its framework structure, and I make no apology for that. Through the Bill, we are embarking on a journey that affects the future of the planet and, as I said, we need the ability to re-evaluate in the light of experience. We as legislators should maintain this flexibility in the structure of the Bill.

Noble Lords have rightly pointed out that a huge degree of secondary legislation will hang on the Bill, but that provides us with the flexibility that the Bill needs to be effective. I am afraid that I disagree with the noble Baroness, Lady Sheehan, on this matter and think that the Bill will work better with effective secondary legislation. My noble friend Lord Blencathra, chairman of the Delegated Powers and Regulatory Reform Committee, made clear how welcome it is to see that so many of the statutory instruments in the Bill are of the affirmative procedure.

My contribution to Second Reading is not based on issues—not that issues do not matter or that they will not come up during the progress of the Bill in this House—but is as a generalist in welcoming the Bill for the opportunity that it gives us, the world and the time that we live in.

8.45 pm

Lord Sheikh (Con) [V]: My Lords, I am the tail-ender and I hope to bat effectively. It is imperative that we redefine our relationship with the natural environment. As I said in my maiden speech, the environment is a passion of mine. I was brought up in Uganda and, as a young boy, would fish on the shores of Lake Victoria and swim in the clean waters of the River Nile. I saw green vegetation around me and wildlife in its natural habitat. I was lucky enough to enjoy nature in my youth, and those experiences led me to a lifelong love of the environment.

It saddens and worries me when I see the problems created by climate change and human actions. Now we have left the European Union, we have the opportunity to set out our own legally binding targets that go above and beyond what has been set before. As we prepare to host COP 26, the Bill demonstrates our determination and commitment to deliver key objectives and set an example for other nations to follow.

Tackling the climate crisis must be a national and international priority, especially as we recover from the pandemic and build better and greener situations. The Bill sets out a clear road map by which we can meet these ambitious targets. It is a modern Bill for a modern age, and we must support it.

As a Muslim, we are taught by the Prophet Muhammad—peace be upon him—to look after the environment. The most popular Hadith on the environment states:

[LORD SHEIKH]

"The earth is green and beautiful and Allah has appointed you his stewards over it."

This principle reiterates the Holy Koran's teaching that human beings have been given the responsibility of guardianship over the natural environment. We must all live by these principles and do what we can. The Bill is an important step in doing that.

I welcome the Bill and have been impressed by how it sets out a new environmental system of governance. As a nation committed to healing our planet, we must enforce environmental protection, while holding the Government and businesses to account. I support the targets, plans and policies in the Bill, which are proactive and allow us to set out own path to protecting the natural environment. I welcome the environmental improvement plans and the ability of the Secretary of State to make regulations relating to air quality, water, biodiversity, resource efficiency and waste reduction. Having a policy statement on environmental principles is essential, as protecting the environment and climate should not be an afterthought but should be proactively considered in all legislation.

Furthermore, the office for environmental protection will provide necessary oversight, scrutiny, and enforcement through the courts where needed to restore the natural environment. It will also provide continuity and consistency to hold the Government and successor Administrations to account. I welcome this, but I hope that we can make sure that it is a robust and independent body which can work constructively. It is important that it should deliver the provisions of the Bill, and their adequate enforcement. Can my noble friend the Minister comment on these points, and give us this assurance?

The other issue which concerns me is air quality. In 2021 the Central Office of Public Interest has found that a quarter of homes are in areas with dangerous levels of air pollution. We must act on this, and I am pleased that the Bill has provisions on air quality targets. I look forward to discussing these points further.

I totally welcome Part 5, related to water quality, resources, drainage, and regulation of water and sewerage companies. These provisions are important, as use of water is an important part of our daily lives. I also welcome the provisions in the Bill related to tree felling and planting. According to the Hadiths, Prophet Muhammad—peace be upon him—told us that if one plants a tree it is deemed sadaqa jariya: an act of continuous charity. Consequently, we are discouraged from cutting down trees. I co-chair the APPG on Islamic Finance, and I suggest that Islamic finance be used to provide support to the provisions of the Bill, such as the issue of Islamic bonds. Islamic finance provides support to projects which help communities, such as protection of the environment. Can my noble friend the Minister comment on utilising Islamic finance in our activities?

The Bill is comprehensive, and I hope that it can help us to take action in pursuit of our environmental goals. I will certainly follow it through its various stages.

8.53 pm

Baroness Bakewell of Hardington Mandeville (LD): My Lords, it is a pleasure to be taking part in this Second Reading at last. I declare my interest as a vice-president of the Local Government Association. The Bill is an important and complex piece of legislation and should, if it delivers on its promise and the Government's aim, make the United Kingdom one of the world leaders on biodiversity, climate change and environmental protection. As always, the devil will be in the detail of its 250 pages, much of which will be examined in Committee.

Clause 16 sets out the five environmental principles which are key to success. Environmental protection must, not should, be integrated into policies. Preventive action must be taken to avoid damage. The precautionary principle must be strong enough to protect the environment. Environmental damage must, not should, be rectified at source. The polluter does indeed need to pay for all damage caused. If these five principles are adhered to strictly, the country will move forward and reach its goals well within target. If they are not enforced, then targets are unlikely to be met. My noble friend Lady Parminter has referred to the departments which are included in the environmental principles. All government departments must be aligned to the environmental agenda, otherwise nothing will be achieved.

The Secretary of State may well draft these policies but, if the OEP is unable to take real action to ensure adherence, principles and targets are meaningless, especially because the Secretary of State drafts the guidance that governs it. The office for environmental protection has been mentioned by many noble Lords: the noble Lord, Lord Cameron, like my noble friend Lord Oates, is concerned about its independence. Peers are concerned that, unless the OEP has real powers, it will not be able to fulfil its promise of enabling the natural environment to recover, thrive and prosper in the way that I believe the Bill and the Ministers intend.

It is vital that the OEP's remit covers all the devolved Administrations, including Northern Ireland. It is a nonsense if the OEP does not take account of the power-sharing nature of the Northern Ireland Executive. The noble Baroness, Lady Ritchie of Downpatrick, raised concerns about this.

There is concern that the environmental review will be weakened by a third party claiming "substantial hardship". This completely undermines the polluter pays principle before we have even started, as mentioned by the noble Lord, Lord Anderson of Ipswich. Of course there will be hardship for the polluter in having to pay for its misdemeanours. Either the Government are serious about protecting the environment or they wish to protect the polluter; they cannot have it both ways. The noble Lord, Lord Rooker, gave us examples of the lack of accountability, and my noble friend Lord Teverson reminded us of the importance of marine conservation, so vital for us as an island nation.

The disposal of waste is a problem that the world has been wrestling with for a long time. A UK citizen now has a greater carbon footprint in 12 days than citizens in seven other countries will have in a year—the noble Lord, Lord Khan, referred to that in his opening speech. We are producing a huge amount of waste and

should, as a country, deal with it rather than exporting it to other countries. This will mean producing significantly less waste. We are subsumed by plastic. The right reverend Prelate the Bishop of Salisbury reminded us of the need for constraint and selflessness in order to ensure that progress is made. We wish him well in his retirement and will miss his contributions in this Chamber.

Clause 61 deals with "Transfrontier shipments of waste". I am concerned that we should be transporting any waste at all. As a country, we need to produce less waste and find better recycling methods for that which we do produce. Deposit return schemes are part of the solution and need implementing sooner than 2023. Secondary legislation is likely to deal with this, and I welcome the affirmative procedure.

I also welcome the separation of waste, which is the responsibility of the householder and ensures that each one of us thinks about the waste that we produce and how we dispose of it. It signals the end of throwing away everything that might be recyclable into a single bin: this often ends up in an incinerator instead of being properly recycled. Many local authorities have successfully collected separated recyclables for years. Of course there are challenges for those in blocks of flats, but these are not insurmountable. I will examine fly-tipping in Committee—it currently affects 67% of farmers and costs over £47 million a year to clear up. This is where a tightening of the law around the polluter paying is desperately needed.

My noble friend Lady Parminter spoke about water conservation, supported by the noble Baroness, Lady Boycott, and the noble Lord, Lord Cameron, who is also concerned about the pollution in our rivers, including the River Wye. The noble Earl, Lord Shrewsbury, spoke eloquently about how raw sewage is discharged into rivers, and other noble Lords supported his comments. This practice has to stop—and soon.

Every day, 2.9 billion litres of water are lost due to water leakages. This is scandalous, given that in some countries women are walking miles to fetch clean, drinkable water. We must all play our part in rectifying this and conserving water. My noble friend Lord Redesdale referred to water efficiency and its importance, as did my noble friend Lord Chidgey. My noble friend Lord Bradshaw and the noble Lord, Lord Smith of Finsbury, spoke eloquently about rainwater re-use. We fully support this on the Lib Dem Benches.

Part 6 deals extensively with nature and biodiversity and has strong links to the Agriculture Act. Local nature recovery strategies will be dependent on willing landowners collaborating to ensure success. Local authorities also have a very significant part to play in ensuring biodiversity gain in planning permissions. My noble friends Lady Parminter and Lord Oates raised this, and the noble Baroness, Lady Boycott, raised the threat of 3,500 houses on the borders of Knepp. On the one hand, the Government are seeking to strengthen the role of planning authorities but, on the other, they are undercutting the democratic input. The noble Lord, Lord Cormack, referred to this issue, which we will debate tomorrow.

The noble Baroness, Lady Bennett of Manor Castle, and the noble Lord, Lord Whitty, raised the harm which pesticides do to the environment.

Lastly, I turn to deforestation. The noble Baroness, Lady Young of Old Scone, is a great advocate for our trees, woodlands and forests, and she and the noble Lord, Lord Carrington, referred to the tree action plan. While it is relatively easy to ensure that no illegal deforestation takes place in the UK and that produce grown on such land is not sold on, this is trickier when trying to hold other countries to account. It is estimated that 1.3 billion people depend directly on forests for their livelihoods; there is therefore a clear human rights issue that sits alongside the climate and nature emergencies. My colleague and noble friend Lady Sheehan raised this issue. It is not about protecting the wealthy, who are creaming off the profit from the desecration of the land. Most deforestation is driven by poverty, but exploited by greed.

It will be important for the UK's laws to be enforced so that all produce from deforestation and conversion is removed from our supply chains. The noble Lord, Lord Trees, referred to illegal deforestation. Loopholes in goods from Brazil will need careful monitoring to ensure this happens. Countries change their laws, as does the UK; the 0.7% on aid is a prime example. The nation should be vigilant to ensure that we monitor the side-effects of such changes in policy, both at home and abroad.

Many noble Lords have referred to access to and enjoyment of the environment, including my noble friend Lord Addington and the noble Lord, Lord Smith. Access is important but it needs to be signposted and stock needs protecting. Animals and the public can both enjoy the countryside if the public are aware of the need to respect the environment they walk through.

I agree with the noble Baroness, Lady Altmann, on the role of pension funds. These are very influential and have the ability to put pressure on companies to act to protect the environment.

I welcome the Bill and look forward to the debates in Committee, and the government amendments trailed by the Minister in his opening speech. I look forward to his response to the many points which noble Lords have made during this long debate.

9.03 pm

Baroness Jones of Whitchurch (Lab): My Lords, I refer to my interests at Rothamsted and in the South Downs National Park, as set out in the register. I am grateful to everyone who has spoken with such passion and urgency about the Bill today. I pay particular tribute to the right reverend Prelate the Bishop of Salisbury for his service and for his wise words today, particularly his plea for action at a local and global level in the care of our planet as we go forward.

This Bill represents a huge opportunity but also a huge responsibility in this momentous year for change. As has been said in debate, the impact of the twin emergencies of habitat loss and climate change on our planet are all too apparent, so we share the Minister's ambition for the UK to go to the Convention on Biological Diversity in China and COP 26 in Glasgow with ground-breaking legislation of which we can all be proud. The election of President Biden in the US and the action he has already taken to provide global leadership on the environment give us all hope. We need to match that ambition.

[Baroness Jones of Whitchurch]

Sadly, this Bill does not quite yet hit that mark. As it has meandered slowly through the Commons, it feels less and less like the ambitious and relevant legislation that Ministers once claimed and wanted it to be. Of course, there is still much to be commended, but the gaps and the fudges remain all too evident.

Many noble Lords have referred to the challenges that we face in the UK, and we still have a huge mountain to climb. While carbon emissions are falling, the UK is not on track to meet the fourth or the fifth carbon budget. A leaked memo has revealed that Defra still has no plan to meet its carbon emissions targets. Meanwhile, wildlife in Britain is on a downward spiral, with 44% of species in decline over the past 10 years. One in seven of our native British species is now at risk of extinction, and tree planting is 50% below target. Every year, 40,000 deaths are linked to air pollution. The UK has missed its 50% recycling target. Meanwhile, an estimated 12 million tonnes of plastic enter the oceans each year. The latest report shows that the UK ranked last in Europe for the quality of our bathing water. In 2019, water companies poured raw sewage into rivers on more than 20,000 occasions and dumped thousands of tonnes of raw sewage on to beaches. I could go on, but these examples serve to illustrate the challenge that this Bill faces in cleaning up our air, land and water.

We of course look forward to sight of the Government's amendments on legally binding species targets and tackling sewage discharge into rivers as a helpful step forward, but, in the meantime, we intend to work through the Bill clause by clause to give it the scrutiny it deserves. While we recognise the timetable for the international conventions taking place later this year, we will take as long as it needs to get this Bill right. It is a once-in-a-generation opportunity.

On the environment targets set out in the Bill, we agree with the critique of many noble Lords that their scope is too narrow, that the Bill gives the Secretary of State too much autonomy in setting them, that there are no interim targets and that the targets are not properly legally binding. Many noble Lords quite rightly raised the challenge of setting meaningful targets and knowing that they can be measured and achieved. We will table amendments to address these concerns. We will also want to follow up on the advice of the Natural Capital Committee that robust baseline data should underpin the future measurement of success.

On the office for environmental protection, we welcome the appointment of Dame Glenys Stacey to lead the body, but, as many noble Lords have said, she needs the authority to deliver its remit without government interference. I hope the Minister heard the almost universal clamour for the role to be strengthened and properly resourced. We have all valued the independent role of the Committee on Climate Change, on occasions being outspoken and sometimes a thorn in the side of government, and we would like the OEP to have a similar legal footing. In particular, we want to remove the provision for the Secretary of State to give guidance to the OEP on how to carry out its role. We will also want the OEP to have greater powers of enforcement, following the advice of the Bingham Centre and ClientEarth. We will wish to explore further whether fines would provide an additional deterrent and, if not, what a comparative sanction might be. I hope that the Minister has heard the views expressed on this issue and will continue his discussions with the noble Lords, Lord Anderson and Lord Krebs, to produce a solution to the Bill failing in this regard. I think that would be welcome on all sides of this House.

On air quality, the Government have ducked their responsibilities for far too long. There is a public health crisis on this issue, which needs to be addressed urgently. As it stands, the Bill does not set a target for air quality but leaves that to the discretion of the Secretary of State. We will be tabling an amendment to deliver the coroner's recommendation to the Ella Kissi-Debrah case, that legally binding targets based on WHO guidelines should be set nationally. As the coroner said in his ruling:

> "The evidence at the inquest was that there is no safe level for Particulate Matter and that the WHO guidelines should be seen as minimum requirements."

We agree with that analysis. At the same time, we will be addressing the fact that many local authorities lack the power or the resources to deliver the local air quality action plans expected of them, but we pay tribute to Birmingham City Council, mentioned by my noble friend Lord Khan, and the Mayor of London for taking action on air quality already.

The need to address the decline in UK biodiversity is, rightly, a major part of the Bill, and many noble Lords referred to it in a range of different ways. The Natural Capital Committee's 2020 report and the Dasgupta report both illustrated the dangers of our demands on nature exceeding supply. As has been said, this will have implications for our humanity and our economy. The Government have now indicated their plan to amend the Bill to deliver a new, legally binding target to halt the decline in nature by 2030, but we want to go further than that, by reversing the decline and creating a positive state of nature as a legal requirement. We will be tabling amendments to deliver this.

We will also want to spend time addressing the proposals for biodiversity net gain and local nature recovery strategies. The Government's recently announced planning proposals, to which a number of noble Lords referred and which many are calling a developers' charter, emphasise housebuilding at the expense of local decision-making. We want to ensure that biodiversity net gain has a legal underpinning that cannot be overridden by developers, and that any conservation credits are applied in the locality with full public involvement and consultation. We share the anger of the noble Baroness, Lady Boycott, at the proposed housing development next to the Knepp estate, which absolutely illustrates the problems ahead if we do not get this right.

Many noble Lords talked about the need to plant more trees. This is an issue in which the Government's delivery has rather trailed behind their ambition, and the latest tree action plan sets targets for tree planting, which are welcome, but does little to protect and restore existing woodlands. This is why we want to see a comprehensive tree strategy in the Bill, with a focus on planting native and broadleaf trees, the protection

of ancient woodlands and incentives for creating smaller, local woodlands, to enhance biodiversity and public enjoyment. We hope to work with noble Lords to deliver these ambitions.

Finally, I want briefly to say something about waste and recycling. Again, this is an area of huge public concern, reflected in the contributions today. We will be tabling an amendment to put the circular economy and waste hierarchy into the Bill, with requirements to reduce and reuse materials before they can be considered for disposal as waste as a last resort. We will look to strengthen the extended producer responsibility provisions so that manufacturers pay the full cost of disposal, we will propose a deadline ban on the international export of all waste, and we will require a consistently high-quality domestic recycling scheme to be implemented.

It has been impossible to touch on all our issues of concern in the time available, but we share a common cause with so many noble Lords who have spoken today. I hope and I know that the Minister will be in a mood to listen and to compromise, and I hope that in the weeks to come, together, we can create a historic piece of legislation to which other countries truly will aspire.

9.14 pm

Lord Goldsmith of Richmond Park (Con): I thank noble Lords for their contributions to this wide-ranging debate. I pay tribute to the right reverend Prelate the Bishop of Salisbury for his wise words, for his service, and for having engaged with me as a Minister in the run-up to this debate. Like my noble friend Lord Taylor of Holbeach, I am sure that we will continue to have lively, robust and insightful conversations as we take this Bill through its remaining stages. I will take this opportunity to address the points raised so far. I will try to get through as many as possible, but I am afraid that time will not allow me to answer them all, so I will write on any specific points that I am not able to address today.

The noble Lords, Lord Oates, Lord Teverson and Lord Bilimoria, all mentioned the seminal Dasgupta review. It is a powerful piece of work—a call to arms that makes plain our total dependence on the natural world and the massive damage that we are doing to it. It makes it equally clear that the fundamental challenge we face is finding ways to reconcile our economy and lifestyles with the natural world. He makes the point that the market is one of the most powerful forces for change of all, other than, perhaps, nature itself. However, as long as the market is blind to valuable things such as ecosystems and is unable to properly put a cost on pollution, waste and plunder, it will not be harnessed in a manner that will take us forward towards a solution.

I reassure the right reverend Prelate the Bishop of Salisbury, my noble friends Lord Randall and Lord Caithness, that we do not pretend that this is a silver bullet, nor is it the end of the story in relation to tackling this appalling crisis, as far as the Government are concerned. Nevertheless, it represents a big step forward. Extended producer responsibility is a profound thing, placing the burden on producers for the lifetime waste costs of a product. Targets, including the new ones that we have committed to, have been much debated today. It is not a complete solution, and I will come on to it later, but we are the first country in the world to attempt to use due diligence to deal with our international footprint. The Bill builds on a number of other major initiatives: our tree programme; the £640 million Nature for Climate Fund; our commitment to restore tens of thousands of hectares of valuable peatlands, and the shift from the common agricultural policy, which was totally destructive and incentivised destruction of nature, towards a system where every payment is conditional on the delivery of public goods.

Internationally, I do not think any country in the world is doing more heavy lifting in the run-up to the Convention on Biological Diversity than the UK. Our international nature strategy is calling for the highest possible ambition, with targets: more finance for nature and global efforts to tackle the main drivers of destruction. These are things that the UK, and no other country, is leading on. I take the point made by the noble Baroness, Lady Jones. We can invest hope in the recent election in the United States—at least, I can. The US now has an opportunity to catch up on environmental concerns, but it is not a matter of the UK catching up with the US—we are miles ahead. I hope and believe that the US will be able to catch up with the leadership that we are providing.

The noble Lords, Lord Teverson and Lord Wigley, and the noble Earl, Lord Sandwich, all mentioned the importance of the marine environment. I forget which noble Lord mentioned the magnificent blue belt around our overseas territories, an area the size of India to which we are currently giving full, total protection. I am thrilled that we are about to launch our blue planet fund. It is another world first—a £500 million fund to help small nations in particular protect themselves against threats such as illegal fishing, pollution et cetera. This is among a whole raft of measures that we are taking to protect as much of the international ocean as we possibly can.

A number of noble Lords mentioned the hugely important issue of water quality. The noble Baroness, Lady Jones, the noble Lord, Lord Cameron, my noble friends Lord Randall, Lord Shrewsbury and Lord Trenchard, the noble Duke, the Duke of Wellington, the noble Baroness, Lady Boycott, and others all talked about the quality of our rivers, waterways and seas. They focused in particular on the unacceptable levels of waste poured in to our waters through storm overflows. The quality of our rivers and other waterways is a high priority for this Government. We are taking action, through the Bill, to enable better join-up between water companies when they are preparing their statutory long-term plans, and to acquire statutory long-term drainage and wastewater management plans.

In addition to the amendments I mentioned earlier, based on the work of my honourable friend Philip Dunne in the other place, these measures give the Government extra levers to act on the most egregious sources of pollution and harm in our aquatic environment, including storm overflows. Water companies clearly must do more to prevent raw sewage flowing into our rivers. All the action I have described will be underpinned by those long-term targets, including reducing pollution

[Lord Goldsmith of Richmond Park]
from agriculture and wastewater, in particular phosphorus and nitrate, reducing water demand from the public water supply, and reducing the impact of toxic pollution to rivers from abandoned metal mines.

The noble Lord, Lord Redesdale, emphasised the importance of water efficiency. I was surprised it was not mentioned by more noble Lords. Defra has consulted on measures and we will be publishing the government response to that consultation very soon, in the summer. The noble Lord, Lord Chidgey, talked about ending abstraction in fragile water systems; he mentioned chalk streams in particular. Restoring England's internationally important chalk streams is a government priority. The Environment Agency is developing long-term plans to reduce our reliance on chalk streams, and I look forward to the publication of an action plan on restoring chalk streams later this year.

A number of noble Lords mentioned air quality. I covered it in some detail in my opening remarks, but the noble Lord, Lord Khan of Burnley, and the noble Baronesses, Lady Sheehan and Lady Jones, all talked about air quality as one of the major priorities we must deal with. I understand the push for specified targets in the Bill. I understand that impulse, but we should not underestimate the challenge—indeed, the upheaval—that would be needed to meet, for example, the current World Health Organization guideline level of 10 micrograms per cubic metre in large cities. It would be enormous.

We need to base whatever targets we set on the evidence and in the full knowledge of the impacts of the choices we will need to make to achieve them. My officials in Defra and experts and partners right across government, industry and academia are continuing to work out the full mix of policies and measures required to meet that target of 10 micrograms. At a minimum, we expect that doing so in London and other cities would likely require policies such as, for example, a total ban on solid fuel burning in cities, a reduction of traffic kilometres across our cities of up to 50% and many other measures. I am not saying that that is impossible, and the Government have been clear that they are not ruling out adoption of the WHO guidelines as a target, but there is a lot of work to do to fully understand the implications were we to undertake that target.

On targets, my noble friend Lord Randall, the noble Baroness, Lady Young of Old Scone, and a number of other noble Lords talked about our new biodiversity target and asked for reassurance. It will be designed to be a net-zero equivalent for nature. We are pushing for the highest possible ambition and it will be subject to the usual scrutiny and consultation. We are not there yet; it is a complicated piece of work and, even within the NGO community, there is much debate about what form such a target would take.

The noble Earl, Lord Lindsay, raised the importance of interim targets for meeting the longer-term targets. He is right and the Government have created a triple-lock statutory cycle to drive short-term progress. The Government must have an EIP—an environment improvement plan—which sets out the steps they intend to take to improve the environment and review it at least every five years. The Government also have to report on progress towards achieving targets every year—publicly, of course. The OEP will hold us to account on progress towards achieving targets and every year can recommend how we can make better progress. The Government would have to respond to those recommendations. This ensures that meeting interim targets is taken seriously and will drive short-term progress. The Government may need to develop new policies when reviewing their EIP, where progress against this triple lock has been too slow.

My noble friend Lady Altmann recommended that the interim targets be legally binding. The difficulty there is that the natural environment, as everyone knows, is complex, interconnected and a system subject to numerous natural factors as well as human activity. For example, aspects of the natural environment such as water quality or soil health could respond very slowly even to ambitious short-term interventions. Legally binding interim targets could therefore result in the setting of less ambitious long-term targets or could force consideration of the wrong policies just to achieve those targets in the short term. What is important ultimately is that, if an interim target is missed, the Government consider what is needed to get back on track and our target framework will ensure that this is the case.

The noble Lord, Lord Krebs, asked why it would be different this time, given that so many targets have been missed. Yes, we missed the Aichi targets; I think every country in the world did. Targets create pressure, which is why many Members of this House are asking us to apply them, but in combination with the numerous measures that will help us to meet them—the new subsidy system, the nature for climate fund, net gain and so on, plus the OEP holding us to account—we can see a pathway to achieving these targets. There is a clear intent on the part of the Government.

My noble friend Lady McIntosh asked about ELM. Although it is not part of the Bill, it is a simple principle. It means that the money that the Government pay is conditional on the delivery of public goods. It means that public money is not provided without the return of some kind of public good. It means compensating or paying landowners for doing good things that are in the public interest but which the market cannot yet fully recognise. Flood prevention is the example she gave; it is a very good example.

My noble friend Lord Lilley cautioned against a Soviet-style central planning system, and he is right: nature, by its nature, is diverse. Good things happen from the ground up, so his advice will very much be taken on board. That point was echoed by the noble Earl, Lord Devon.

Many noble Lords talked about the independence of the OEP and questioned whether it was independent enough. They included the noble Lords, Lord Berkeley, Lord Addington, Lord Cameron of Dillington and Lord Anderson, my noble friend Lord Duncan of Springbank, the noble Baroness, Lady Boycott, and the right reverend Prelate the Bishop of Oxford. I thank the noble Lord, Lord Anderson, very much for

the time he has put into this and the advice he has provided; I look forward to continuing discussions with him.

The Government are committed to ensuring that the OEP is established as an independent body, which is why numerous safeguards are already in place to protect its independence. Schedule 1 includes the requirement that, in exercising any functions relating to the OEP, the Secretary of State has to have regard to the need to protect its independence. The EFRA Committee and Environmental Audit Committee jointly carried out a pre-appointment scrutiny of the preferred chair of the OEP and confirmed her suitability for the role. The OEP is under a legal requirement to provide an assessment to Parliament of whether it receives enough funding. Ministers will have to respond to that if the money is deemed insufficient. The Government intend for the OEP to be given a multi-annual indicative budget, which will be ring-fenced within each spending review period, giving the OEP even greater flexibility and certainty.

A number of noble Lords talked about the enforcement powers of the OEP. The noble Lords, Lord Whitty, Lord Oates, Lord Anderson and Lord Rooker, and the noble Baroness, Lady Jones, raised this issue. The OEP's enforcement powers are different from and will operate more effectively than those of the EU Commission, as it will be able to liaise directly with the public body in question to investigate and resolve alleged serious breaches of environmental law in a more targeted and timely manner.

On environmental review, the OEP can apply for judicial review remedies, such as mandatory and quashing orders, subject to all the usual safeguards, which will work to ensure compliance with environmental law. The Court of Justice of the EU cannot issue these kinds of remedies to member states. In addition, in exceptional circumstances where the OEP needs to act quickly to prevent something happening, it may apply directly for a judicial review. I will write to the noble Lord, Lord Anderson, and other noble Lords to provide more detail on that, as I will not have time to do so in these remarks.

My noble friends Lady Jenkin and Lord Caithness and the noble Viscount, Lord Colville, raised the importance of tackling our wastefulness as a society. The Environment Bill will allow us to deliver consistent and frequent recycling collections across England, ending the current postcode lottery; this is one of the biggest and most visible changes it will make on waste. It will ensure that councils operate weekly separate food waste collections, preventing food waste going to landfill and being incinerated. It will allow the Government to introduce clearer labelling on certain products and expand the use of charges on single-use plastics, not just those that have been listed.

As I said earlier, the Bill introduces extended producer responsibility. The noble Lord, Lord Wigley, said that the burden of waste should fall on the producer of that waste; that is exactly what the Bill does. The noble Baroness, Lady Bennett, made the point that recycling is the option of last resort. I agree and so do the Government, and that is reflected in our approach to tackling waste.

The noble Earls, Lord Lytton and Lord Shrewsbury, talked about the scourge of fly-tipping. The Bill gives enforcing authorities more powers to tackle the so-called Facebook fly-tippers operating from their homes. The resource and waste strategy includes further commitments, including to launch a fly-tipping toolkit to help local authorities and others to tackle fly-tippers.

The noble Lord, Lord Trees, raised the issue of antimicrobial resistance. That is not directly in the scope of the Bill, but I would like to carry on that conversation with him, because antimicrobial resistance is one of the greatest health threats we face. Although the new subsidy system—ELM—will have a bearing on the amount of antibiotics used in factory farms, that is not a matter that falls directly under the Bill. With his permission, I will return to that subject another time.

The noble Lord, Lord Browne, mentioned lead pellets. That is not part of the Bill either, but I strongly agree with him and would like to see that shift happen sooner rather than later.

The noble Lord, Lord Faulkner, mentioned heritage rail. I enjoyed a passionate conversation with him recently, and he really made the case for the exemption. The Government are very confident, as am I, that heritage railways will continue to operate, because although our electricity systems will no longer rely on coal, it can still be used by a range of industries that need it. The decision on where to source coal is, obviously, a matter not for the Government but for the companies involved.

The noble Lord, Lord Addington, and the noble Baroness, Lady Parminter, emphasised the importance of people having access to nature. That, too, is very much recognised at the heart not only of this Bill but of other government initiatives. We strongly agree with her, of course, and are working out the best and most appropriate mechanisms for delivering that kind of change. We are also working through the Department for Education and through the tree programme, which a number of noble Lords mentioned.

I have a lot to cover here. On biodiversity net gain, I can tell my noble friends Lord Randall and Lord Blencathra and the noble Baroness, Lady Bennett—and, I hope, reassure them—that although nationally significant infrastructure projects remain out of the scope of the mandatory requirement for the Bill for the time being, the Government are exploring how a biodiversity net gain approach for big infrastructure projects could best be delivered, including what legislative levers could be used to support it. This is something that we are actively working on.

A number of noble Lords pointed to the potential tension between planning legislation and the Bill. The Bill lays the foundations for environmental protection, and that will form the basis of the forthcoming planning Bill. The *Planning for the Future* White Paper reiterates our strong commitment to biodiversity net gain, and I can provide reassurance that, in line with our manifesto commitment, existing policy for green-belt protection will remain.

The noble Lords, Lord Carrington and Lord Redesdale, my noble friends Lord Trenchard and Lord Cormack and a number of others talked about the importance

[Lord Goldsmith of Richmond Park]
of heritage being part of our vision for conservation and the countryside. They are absolutely right. The 25-year plan explicitly recognises the link between the natural environment and heritage. It is, do not forget, our first environmental improvement plan, so it is at the heart of our approach.

The noble Baroness, Lady Young, talked about several things, one of which was the value of English native trees as opposed to conifer monocultures. We absolutely recognise the biodiversity value of the former, which is reflected in our approach to the use of public money for funding and subsidising the tree programme. She also talked about biosecurity concerns, and why we should source more of our saplings domestically. She is right about that as well—and that too is reflected in our policy.

I am running out of time, so I hope that noble Lords who mentioned due diligence will allow me to come back to them another time. I thank my noble friend Lord Blencathra for his kind words about the Bill, and I hope that they provided some reassurance for others who raised the issue of delegated powers. I thank my noble friend Lord Taylor for his comments as well. As for my noble friend Lord Blencathra's proposal to change "biodiversity" to "nature", he makes an important point, but the trouble is that those two terms are not exactly the same. Planting a Sitka spruce monoculture might give us more nature, but it would not give us more biodiversity. The same is true across the board—so it is a subject ripe for an argument. I am happy to have that conversation, but I would take some persuading, because I think we are probably in the right place on this.

I am sorry for not having addressed all the issues raised. There have been some fantastic contributions, and I thank everyone who has spoken today. I hope that people feel that I have covered at least the bulk of the points raised. I have met a large number of Members and I am keen to meet more; I shall continue to engage. I also thank the various NGOs, landowning groups and businesses that have helped to develop the Bill. I commend the Bill to the House.

Bill read a second time and committed to a Committee of the Whole House.

House adjourned at 9.35 pm.

Grand Committee

Monday 7 June 2021

The Grand Committee met in a hybrid proceeding.

2.30 pm

Arrangement of Business

Announcement

2.30 pm

The Deputy Chairman of Committees (Baroness Finlay of Llandaff) (CB): My Lords, the hybrid Grand Committee will now begin. Some Members are here in person, and others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to respect social distancing. If the capacity of the Room is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. We are not expecting a Division in the House but, if there is one, I will adjourn the Committee for five minutes.

Immigration (Collection, Use and Retention of Biometric Information and Related Amendments) Regulations 2021

Considered in Grand Committee

2.31 pm

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

That the Grand Committee do consider the Immigration (Collection, Use and Retention of Biometric Information and Related Amendments) Regulations 2021.

Relevant document: 1st Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the legislation that we are debating concerns two linked elements of our immigration system: the use of biometrics and the fees regime. I shall take each of them in turn.

The use of biometric information enables us to check and confirm the identities and immigration status of foreign nationals who come to or live in the UK. The Government are pursuing an ambitious programme of change to enable the UK to take back control of its borders and deliver a fair and firm immigration system that is much easier for customers to navigate and that works in the national interest.

Through the biometric regulations we will update our powers so that fingerprints can be enrolled once and retained for subsequent reuse, saving applicants the inconvenience of needing to re-enrol every time they make a new application to come to or stay in the UK, or to replace immigration documents. The regulations also provide us with the ability to restart the fingerprint retention period when biometrics are reused for an immigration application to avoid deleting them prematurely.

The regulations will support the move from physical to digital evidence of immigration status. We live in a digital age in which businesses and customers expect a swift, user-friendly service. With that in mind, we are developing a biometrically-enabled digital immigration system, underpinned by security and efficiency, which will provide real-time evidence of immigration status online. The regulations also clarify our powers to use and retain biometric information obtained from asylum seekers and foreign nationals who are unlawfully in the UK and who require leave but do not have it or who lack adequate documentation.

The fees order sets out the services that we charge for and the maximum amounts that we are able to charge for immigration and nationality products and services. I want to be clear from the outset that no fee levels will be changed through the order. Clearly, fee levels are amended through immigration and nationality fees regulations, which are laid before Parliament separately and subject to the negative procedure.

The changes in the fees order ensure that definitions within the legislation are flexible enough to enable us to evolve our products and services to meet the demands of our customers. The order will amend the definition of "transfer of conditions" to ensure that it covers the need to update digital services as well as changes to physical documents. The change to the definition of "premium services" will provide the department with greater flexibility to offer a wider range of optional premium services that relate to immigration or nationality where there is a demand to do so. These changes do not introduce any new services at this point or impact on standard services. The order also ensures that the related provisions in the Immigration and Nationality (Fees) Regulations 2018 are updated to reflect those definitions.

In reusing biometric information, the department continues to incur processing costs that need to be met. The fees order will therefore clarify and give assurance that the power to charge for biometric enrolment also includes the power to charge for biometric reuse.

I know that these are both quite technical areas, but I hope I have been able to explain how this legislation will help facilitate our ambitious journey towards a biometrically-enabled digital immigration system and ensure that the fees we charge for border, immigration and nationality services are supported by the right framework. With that, I beg to move.

2.36 pm

Lord Paddick (LD) [V]: The noble Baroness has explained that the draft Immigration (Collection, Use and Retention of Biometric Information and Related Amendments) Regulations 2021 are intended to improve the levels of assurance about the identities of those passing through or coming to the United Kingdom through the use and retention of biometric information obtained for immigration and nationality purposes. It is part of the Government's move from physical documents to digital, despite the problems already identified where EU citizens with either settled or pre-settled status are being detained at the UK border. Many of these issues could be quickly and easily resolved if, as this House repeatedly told the Government, physical proof had been provided of settled status alongside digital recording.

While we are on the subject, what happens to EU citizens who have applied for settled status but who have yet to receive a response from the Home Office? I

[Lord Paddick]
have some knowledge in this regard. I have an email from the Norwegian authorities to show that my application for residency in Norway has been submitted. I have to show it at the Norwegian border to prove that I continue to have the right of residence while my application is being considered. Can the noble Baroness please tell the Committee what happens at the UK border? What instructions are given to Border Force staff about pending decisions on settled status?

As the noble Baroness acknowledges, there is a wide range of different provisions in this SI, as we are accustomed to when it comes to immigration legislation, making it difficult to scrutinise—hence only Front-Bench participation in this debate, which is worrying for an affirmative procedure statutory instrument.

"Take back control of our borders", the noble Baroness continues to say, and that prompts me to continue to say that visa-free entry to the United Kingdom has recently been extended to nine other countries, as well as being retained for EU, EEA and Swiss nationals. Therefore, the claim that we are taking back control of our borders has a certain hollow ring to it.

The regulations allow a photograph to be taken and retained in limited circumstances when someone passes through the border; for example, where a person cannot produce a photo ID document such as a passport or does not have leave to remain in the United Kingdom. That photograph can also be taken subsequently by appointment. Photographs can also be taken of the dependants of individuals in these limited circumstances. The photograph may be retained only where there is already a power to do so and can be used to investigate an offence or for other limited purposes. It must be destroyed when it is no longer needed; for example, when it is established that the person is a British citizen.

Retention of fingerprints is extended from 10 years to 15 years, as the noble Baroness said, with the ability to retain them beyond that date if necessary; for example, where the person is subject to a deportation order. Photographs are retained until the person obtains a United Kingdom passport. Biometric data can also be reused; for example, when a further application is made. The clock resets when the further application is processed. At the end of the 15-year period the fingerprints must be destroyed and digital copies must be made irretrievable, and someone is entitled to a certificate to prove that this has been done.

I understand that fingerprints do not change significantly during a lifetime, but the facial appearance of a person does, which is why photo ID such as driving licences and passports require regular renewal. Do the Government intend to require those whom they have taken facial photographs of to have a photograph retaken, say, every five years?

I am a little concerned that the regulations state that, where information is different in physical and digital forms, the digital information takes precedence. I understand that, if someone's immigration status is revoked and the physical document is not in the possession of the Secretary of State, it can be changed digitally, and in such cases the digital record takes precedence. But is this always the case? Could there be circumstances where the digital record is wrong, for some reason? Should not cases therefore be decided on their merits, rather than by setting down in legislation that the digital copy automatically takes precedence? Aside from these concerns, we are content with these regulations.

On the draft Immigration and Nationality (Fees) (Amendment) Order 2021, the Government seem intent on making immigration and nationality fees a money generator. Despite the fact that photographs and fingerprints can be reused at the press of a button each time someone applies for an extension of leave to remain, instead of a person being sent to an appointment to give their fingerprints and photographs, the Government still claim that

"as the departmental processing costs for reuse are similar to those for taking fresh biometrics the fee must remain."

Can the Minister explain how the cost of copying and pasting fingerprints and photographs electronically from an existing application to a new applications is similar to that of arranging for a person to attend in person and an official taking their fingerprints and photograph? I know from personal experience of having taken many fingerprints from individuals that that can be a difficult and time-consuming process. Is this not just another example of digital efficiency producing more profit for the Home Office?

On premium services, can the Minister explain what impact people paying even more to the Home Office for optional premium services has on what the Explanatory Notes refer to as the "standard or basic service"? Does the Home Office employ additional staff to provide premium services, or is the time taken for the standard or basic service longer the more people avail themselves of the premium service?

It is noted that the definition of premium service, previously restricted to services in connection with immigration and nationality applications, is to be extended to immigration and nationality generally. While the Government provide the example of Border Force officers checking passports on carriers at sea, which some carriers choose to pay for, one can also foresee a situation where Border Force could charge a fee for fast-track immigration at airports. Can the Minister explain what impact premium services such as checking passports on carriers at sea have on the capacity of Border Force to process passengers at air and sea ports? Do the Government have any plans to introduce fast-track entry for a price at UK borders?

Will any income generated by these premium services be used to provide more Border Force officers, or will the already unacceptable waiting times at UK borders simply be extended for those unwilling or unable to pay for a premium service? We are very concerned about the widening of the definition of premium services as set out in these regulations.

2.45 pm

Lord Ponsonby of Shulbrede (Lab): My Lords, I thank the Minister for introducing these two instruments. The first—the Immigration (Collection, Use and Retention of Biometric Information and Related Amendments) Regulations 2021—makes a series of changes to the capture of biometric information on foreign nationals, including asylum seekers, those who arrive at the border undocumented and those who are detained or

bailed under immigration powers. The second—the Immigration and Nationality (Fees) (Amendment) Order 2021—makes some technical changes to definitions to reflect the gradual movement of the Home Office from physical documentation to a digital system.

I have a number of questions, some of which replicate the questions just asked by the noble Lord, Lord Paddick. In the policy statement published alongside the 2014 Act, the Government stated they planned to retain biometric information for up to 10 years. What is the rationale for now extending the limit from 10 to 15 years? It seems an arbitrary increase.

The impact of the regulations appears to be that sensitive biometric information can be held for significantly longer periods of time. Can the noble Baroness confirm that that is indeed the Government's intention? The regulations provide for the general limit of 15 years, but also provide that the Secretary of State may retain information for as long as necessary, for immigration purposes. Is there guidance on what "necessary" means in this context? The examples given in the supporting documents of where information will be held for longer include where

"the person is subject to a Deportation or Exclusion Order."

In what other situations should we expect data to be routinely held for longer than 15 years?

On the immigration fees order, it seems odd that the cost of processing data already held is the same as the cost of enrolling new biometric data. The noble Lord, Lord Paddick, made this point and gave a vivid example from his experience as a police officer. Can the Minister give a fuller explanation of this apparent disparity?

Photographs of facial images were raised by the Labour Party during the passage of the 2014 Act. Where a person is granted citizenship, their fingerprints are destroyed, but the photograph is kept until they apply for a passport. For those who never apply for a passport, this means their photo will potentially be kept indefinitely. Does the Minister know how many people this impacts and why a time limit has not been considered?

Regulations under the 2007 Act set out what information a biometric document may contain. The Explanatory Memorandum tells us:

"These Regulations provide that other information may … be included … limited to information connected with … immigration status or nationality."

What other information is this expected to include?

On the power to prevent the use of a digital immigration document, is there a risk that a digital status could be cancelled without the person being notified, bearing in mind that the number of successful appeals demonstrates how often the Home Office makes incorrect decisions and that digital status is also a person's access to work, healthcare and the right to rent, et cetera? What will be the system for effectively switching off a digital status, as it were?

A related issue following on from the Domestic Abuse Act, which we recently considered, is that Southall Black Sisters and more than 50 other expert organisations have raised concerns over changes to the enrolment of biometrics for migrant survivors of domestic abuse. They have been informed that victims of abuse must now travel to immigration centres, rather than the existing system, which used local post office locations. Southall Black Sisters and others have raised concerns over the impact on these extremely vulnerable victims of being required to criss-cross cities to access the service and over the resource strain that this will put on the specialist community organisations which would support them when they do this.

I have seen the letter to Marc Owen, who is director for visas and citizenship, dated 19 May 2021, and his response, dated 24 May. The expert organisations were not consulted on these changes and have requested a meeting with the Minister. Would the Minister be able to commit to looking at these issues and meeting those organisations, which have a specific concern regarding the lack of access through the Post Office system to these facilities? My understanding from reading the letter to Marc Owen is that the contract with the post offices is coming to an end, so they will not offer these facilities in future. Therefore, there will be some seven centres for the whole of England and Wales and only one in London, in Croydon, where the people from these centres would be expected to go to register their access, if I can put it like that. This will be very resource-intensive for the organisations supporting them, because they will have to accompany them and help them with their applications. It was a much simpler process when they were able to go to local post offices. That is the point that I am making to the Minister.

2.51 pm

Baroness Williams of Trafford (Con): I thank both noble Lords for the points that they made. On the point made by the noble Lord, Lord Paddick, I usually find that lack of Front-Bench participation means lack of controversy as opposed to lack of understanding. In fact, quite often a lack of understanding leads to a big showing at some of these SI debates.

I start with the final point made by the noble Lord, Lord Ponsonby, about the post offices. Clearly, being digital by default should make the whole system more seamless. However, I have previously engaged with Southall Black Sisters and am very happy to take those points back and look into them again.

On the first point from the noble Lords, Lord Paddick and Lord Ponsonby, on the reasons for biometrics and face recognition versus fingerprints, they are both right in that the instrument will allow us to reuse the fingerprints that we already hold, whether the person makes an immigration or citizenship application. It will also allow us to reuse facial photographs, although in most cases we will require a new photograph, which most applicants will be able to provide remotely using the UK ID check app.

That goes back to the previous point that I made to the noble Lord, Lord Ponsonby. Faces change, clearly, and the image needs to resemble the individual. We will deliver biometric reuse in phases, starting with applicants who apply for leave under the graduate route scheme, allowing them to use their biometric residence permit as proof of ID and use the app. They will upload a new facial image over the app, which will be displayed in the UKVI account and will enable them to use the online services to view and prove their immigration status. However, we will use the fingerprint data that they provided from their previous application;

[Baroness Williams of Trafford]
the regulations enable us to reuse the previously enrolled fingerprints for a new application and allow for the fingerprint retention period to be restarted as if they fingerprints had been freshly enrolled.

One of the noble Lords asked about destruction of images that are no longer in use—I think it was the noble Lord, Lord Paddick. My understanding is that they would be destroyed if not used. If that is any different, I shall confirm it in writing, but it is my understanding that they are destroyed.

We are extending the retention period to 15 years because we sought to strike the right balance between public safety, customer convenience and individual privacy rights. It will reduce the likelihood that a person's fingerprints will have been deleted before they make a further application, thereby avoiding the inconvenience and cost associated with providing a new set of fingerprints while maintaining the principle that we will retain fingerprints only for as long as necessary.

In addition to customer convenience, the public safety aspect is of course a key priority, particularly our ability to identify foreign nationals who overstay their immigration permission and abscond. We have encountered individuals who have been in the country for more than 10 years and were identified as immigration offenders or found to have committed serious criminal offences, which would have triggered a longer fingerprint retention period, shortly before their fingerprints were due to be deleted. We do not want to delete the fingerprints of such individuals earlier then we need to, because it makes it harder to identify them and remove them from the UK.

On the point made by the noble Lord, Lord Paddick, about EU settled status applications, if your application is pending your rights will be protected. In any event, no action will be taken until post 1 July. After that, you will have 28 days in which to either start an application or have it concluded.

There have been many debates over the past couple of years on the transition from physical documents to evidence of immigration status in a digital format. The Government have made it absolutely clear that we will be digital by default and will move away from physical documents as evidence of immigration status to all migrants having access to online services to view and prove their immigration status. To answer a point made I think by the noble Lord, Lord Ponsonby, the UKVI account can be accessed and updated more easily than a physical document, which, of course, has to be reissued. We started the process of providing access to the online "view and prove" services instead of a physical document as evidence of status for those granted leave under the EU settlement scheme. Those who are able to use the UK Immigration: ID Check app include those applying under most of the new points-based system routes and, of course, on the Hong Kong BNO route.

Replacing the physical immigration documents with access to online services to view and prove immigration status for all migrants at the same time would not be practical. Instead, we intend to phase out physical documents incrementally. That is why the regulations change the definition of a biometric immigration document to give us greater flexibility to issue documents in a range of formats, whether the biometric residence permit, a vignette in a person's passport, or a digital product. The fees order will also amend the definition of "transfer of conditions" to ensure that it covers updates to online services as well as physical documents.

I should explain why we have included provisions relating to the taking of photographs under the Immigration and Asylum Act 1999. At the time of that Act, we did not consider photographs to be biometric information. Of course, technology has moved on and it is right that these regulations clarify the position to make it clear that photographs can be taken, used and retained in the same way as fingerprints are taken under the 1999 Act. This will ensure that photographs taken for these purposes will be treated in the same way as photographs provided for an immigration or citizenship application.

The noble Lord, Lord Paddick, asked about premium services. The order is not creating any new services or amending the fee that can be charged for any premium services. It will allow the Home Office to identify opportunities to further enhance the customer experience with the introduction of new, optional—that is the operative word—premium services. These services are not in connection with an application; they are provided over and above any standard or basic service in connection with immigration or nationality. The order will allow the premium services to be offered in connection with immigration and nationality more broadly, not just immigration and nationality services.

On the fees, it is government policy that those who use and benefit most from the immigration system should contribute towards the cost of operating the system, reducing the burden on the UK taxpayer. We think that our fee levels allow us to continue to attract the brightest and best to the UK, while enabling the Home Office to work towards a self-financing migration, border and citizenship service. We do not make a profit from applications where the fee is higher than the estimated unit cost, because all income generated above the estimated unit cost is used to fund wider migration, border and citizenship services, reducing the cost to the taxpayer.

I think I have answered all questions. The noble Lord, Lord Ponsonby, and I are staring straight at each other, and so he can say if he has any other points.

Motion agreed.

Immigration and Nationality (Fees) (Amendment) Order 2021

Considered in Grand Committee

3.01 pm

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

That the Grand Committee do consider the Immigration and Nationality (Fees) (Amendment) Order 2021.

Motion agreed.

3.02 pm

Sitting suspended.

Arrangement of Business

Announcement

3.15 pm

The Deputy Chairman of Committees (Baroness Finlay of Llandaff) (CB): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person, others are participating remotely, but all Members will be treated equally. I ask Members in the Room to respect social distancing. If the capacity of the Committee is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. The time limit for the next debate is one hour.

British Nationality Act 1981 (Immigration Rules Appendix EU) (Amendment) Regulations 2021

Considered in Grand Committee

3.15 pm

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

That the Grand Committee do consider the British Nationality Act 1981 (Immigration Rules Appendix EU) (Amendment) Regulations 2021.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, for ease, I will refer to this instrument as the "British Nationality Act SI". The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 ended free movement on 31 December last year. That Act enabled us to take back control of our borders for the first time in decades, delivering on manifesto promises to the British people and paving the way for the new points-based immigration system, which began operating from 1 January 2021.

Parliament also approved the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020. These provide an additional six months—referred to as the grace period—in which an EEA or Swiss national and their family members resident here by the end of the transition period can still make an application to the EU settlement scheme by 30 June this year for the status they need to secure their rights under the citizens' rights agreements, and have their existing EEA residence rights protected in the meantime. The Immigration Rules for the scheme, at appendix EU, also confirm that, in line with the citizens' rights agreements, an application can be made after the 30 June deadline where there are reasonable grounds for missing that deadline.

The British Nationality Act SI reflects the ending of the grace period on 30 June 2021 and the scope for an application to the EU settlement scheme to be made after that date, or to be decided after that date having been made before it. The SI protects nationality rights for children born after 30 June but before the outcome of such an application. It is only after 30 June, and with the ending of the grace period, where there is a risk of parents losing status previously held and protected.

The British Nationality Act SI is made under the delegated regulation power in Section 5 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020, the scope of which was debated extensively in both Houses during the passage of the legislation. The SI amends primary UK legislation as a consequence of, or in connection with, the provisions in Part 1 of the Act, which end free movement. It amends legislation relating to nationality acquired through birth in the UK. We are determined to ensure that children do not miss out on British citizenship through no fault of their own.

The very positive effect of the legislative change that we are discussing is to allow a child to automatically become a British citizen when born in the UK after 30 June 2021 and once the EU settlement scheme application submitted by their parent or parents is resolved through the granting of indefinite leave—known under the EU settlement scheme as "settled status"—which occurs after that birth. This might occur in two scenarios: where an application was submitted by 30 June but has not been resolved at the point of the child's birth; or where an application is submitted after the 30 June deadline, based on reasonable grounds for missing that deadline, and is resolved favourably after the child's birth. In this scenario, the parent would clearly need to demonstrate that they would have met the relevant eligibility requirements immediately before 1 July 2021.

The immigration rules and guidance already set out how any late applications to the EU settlement scheme should be considered and the approach to take to what may constitute reasonable grounds. The British Nationality Act SI provides clear protection for a child in this position without the need to make a separate nationality application, reflecting the unique position of those affected. The change will come into force on 1 July, immediately after the end of the grace period.

This SI ensures that there are no unintended consequences from the necessary deadline for the EU settlement scheme. It is basically an essential step in protecting the status of children, and I commend it to the Committee.

3.21 pm

Baroness Ludford (LD): My Lords, I thank the Minister for her introduction. I warmly welcome this measure, which is not always something that I can say about government legislation, particularly in the field of immigration and citizenship. The SI is practical, sensible and humane, as well as consistent with Article 18.3 of the withdrawal agreement, in safeguarding the right to acquire British citizenship for children born after 30 June to EU citizens who do not have settled status at the time of the child's birth, either because the application has not been processed in time or because a late application was allowed on reasonable grounds, but who go on to get it later.

I have one question about the SI and then I want to raise some points on other aspects of the EU settlement scheme. The question is this: why is the concession

[Baroness Ludford]

being made only in respect of children born after 30 June? Can the Minister clarify the position for children born before 30 June whose parents have a gap in their immigration status after 30 June that is later resolved? What is the situation for those children? The Minister may tell me that I ought to know the answer, but I would be grateful anyway. Could she also explain what happens to children of parents who go on, in the scenario posited, to get pre-settled status? As far as I can see, they are not covered by the SI.

For children who are covered by the SI, I would be grateful to learn from the Minister what the communications plan is to make families aware of the citizenship opportunity under new Section 10A, and what evidential requirements will be imposed. We are all only too aware of what happened to many of the Windrush generation. Studies earlier this year by the JCWI and the Social Market Foundation found that high percentages of their interviewees in social care and low-skilled work were unaware of the scheme.

Of special concern among children would be those estranged from their parents. How many children in care entitled to British citizenship have not yet been registered by local authorities? Will the Home Office be able and willing to assist—through its records, whether of eligibility for settled status before 1 July or of the timing of an application for settled status and the reasons for a late grant of status—in confirming a parental relationship and the British citizenship or settled status of the parent at the relevant time? I believe that is required under Section 55 of the Borders, Citizenship and Immigration Act 2009 and by the UN Convention on the Rights of the Child. Will the child, parent, adoptive parent, local authority or other carer with parental responsibility get access to those records if necessary? Obviously it would be inappropriate and unfair for the Home Office to insist that a child produced the original of the document, given that that original was issued by the Home Office to their parent. The child could produce a copy and explain the fact of estrangement.

There is also, of course, the question of the fees for applying for citizenship, which are over £1,000. That is a huge barrier for many people—an issue that many in this House regularly raise. That is compounded by the lack of legal aid for complex cases. Has there been any reconsideration of these matters?

Turning then to other, less benign consequences of a late application, it seems curious to me that, in contrast to the subject matter of this SI, a person applying after 30 June will face drastic circumstances: the loss of lawful status, and with it the loss of the right to work, to rent accommodation, and to get free non-emergency NHS care, benefits or homelessness assistance. In fact, the full hostile environment will fall upon them, with the possible risk of removal. This is the case, as I understand it, even for those who are accepted to have reasonable grounds for a late application. Can the Minister tell us whether, three weeks from the deadline, there is any inkling of a softening in the Home Office's approach?

Will EU citizens and their family members who miss the deadline but continue to work or rent be committing a criminal offence? Would the employer or landlord themselves face criminal proceedings? My friend in the other place, Stephen Farry MP, asked the Prime Minister 10 days ago for clarity on this, but all he got in response was that the Prime Minister was

"sure the law will be extremely merciful to anybody who finds themselves in a difficult position".—[*Official Report*, Commons, 26/5/21; col. 369.]

Can the Minister spell out what on earth this means in practice? I hope that it was not one of those promises like the infamous, "There will be no paperwork for Great Britain to Northern Ireland trade".

An article in the *Guardian* on 27 May reported a Home Office spokesperson as saying that

"Further information will be provided to employers shortly about what they should do if they have an employee who finds themselves in this situation."

Similarly, an answer to another Parliamentary Question said that the Home Office would be

"updating … guidance and communicating with landlords in the coming weeks".

Can the Minister tell me whether such information and guidance has now been provided?

I understand that an announcement is due later this week on new EU settlement scheme Covid-19 guidance, which will say that absences longer than 12 months for Covid-related reasons will not break "continuous residence", so that affected EU citizens will still be able to build up their residence period for settled status. This would also be a welcome concession. If the Minister could tell me that the Home Office will continue to be in flexible mode, that would be most helpful—although of course guidance does not provide legal certainty, and there is a case for enshrining that concession in law.

In particular, there is a very good case to avert the status gap by granting the temporary right to reside during at least the period until those applicants recognised as having a good reason for a late application get a grant of status. Can the Minister give me a glimmer of optimism on that score? Surely if the Government can, as it were, freeze rights as they are doing on citizenship in this SI, they can do the same in respect of other rights, instead of the proposed drastic loss of residence rights even for those recognised to have reasonable grounds.

Will the Home Office also look again at the treatment of those judged not to have reasonable grounds? The Government have a huge set of discretionary powers and responsibilities in this area, and the worry is that there will be differing interpretations and applications of the caseworker guidance.

Could the Government also consider expanding the list of reasons considered reasonable for lateness to include, for instance, primary carers of children applying late; lack of capacity, as an automatic good reason; pregnancy and maternity around the deadline, which particularly during Covid have been even more stressful and preoccupying than they normally are; and having permanent residence, which many, however mistakenly, think is sufficient? Will the Home Office train all its decision-makers working on late application requests and monitor all decisions to ensure consistency?

Can the Minister give us an up-to-date figure on the number of outstanding applications not yet processed? In a recent letter to parliamentarians, the Home Secretary

said that, as of 30 April, over 5.4 million applications had been received and over 4.9 million grants of status made. How many of the remaining half a million have been refused and how many are still to be processed? Will the Home Office publish figures on the time it is taking to process applications, the average wait and those waiting longer than, say, three, six or 12 months?

The "New Plan for Immigration" Statement of 24 May refers to the Government "Building on the success" of the fully digital EU settlement scheme. Many EU citizens are not so impressed that they are being refused a physical proof of status. Indeed, many worry about how they will prove their status after 30 June if they make a late application that is accepted on good reasons grounds. How will their prospective employers and landlords prove their right to work, rent and access healthcare and benefits? Article 18.3 of the withdrawal agreement states that:

"Pending a final decision … on any application … all rights … shall be deemed to apply to the applicant".

How is that being complied with if they cannot generate an online "share code"? An employer or landlord required to contact a checking service will surely not bother unless they really want that employee or tenant.

EU citizens' trust in a fully digital scheme which rests on confidence in the Home Office's records and systems will not have been increased by the extraordinary move—to which my attention was first drawn by journalist Robert Peston—of British citizens being sent letters telling them that they need to apply for settled status. Can the Minister explain this mistake?

Lastly, press reports of extraordinarily harsh treatment of EU citizens newly arriving have not inspired confidence—far from it. Was it really necessary to detain and even deport some people, because surely even those seeking work had a right to attend an interview? What can the Minister tell me about what went wrong? Can she reassure me about training now for Border Force personnel?

3.31 pm

Lord Paddick (LD) [V]: My Lords, I again thank the Minister for explaining these regulations. As she explained, the draft British Nationality Act 1981 (Immigration Rules Appendix EU) (Amendment) Regulations 2021 seek to prevent children born after 30 June 2021 failing to acquire British citizenship as a result of their parents not having EU settled status at the time of their birth. As my noble friend has just said, it covers only late applications made or resolved at the end of the grace period on 30 June 2021. Although it is welcome, it raises a series of issues. British citizenship is granted on the date when settled status is granted.

I commend my noble friend Lady Ludford on her excellent questions to the Minister. As a consequence, I can be brief. First, can the Minister explain why British citizenship is not being backdated to the date of birth? If the parent was entitled to remain in the UK indefinitely when the baby was born, albeit that by reason of late processing or late application settled status was not granted until after the end of the grace period, surely the baby is entitled to British citizenship from birth. Secondly, how can a child born in the UK to a parent entitled to remain in the UK indefinitely be denied British citizenship because its parent did not fill in the right forms? The resonance with the Windrush generation, as my noble friend has just alluded to, is deafening.

Surely if the Government can amend the British Nationality Act 1981 by means of this statutory instrument to deal with a baby born in the UK to parents who do not at the time of birth have formal legal indefinite leave to remain but are subsequently granted EU settled status, they could amend the Act so that a baby born in the UK in such circumstances could be granted British citizenship from birth. The point I am trying to make is this: a differentiation is being made on the basis of an administrative process—the application for and granting of EU settled status—rather than on the right of the parent to remain in the UK as a result of living and working in the UK before 31 December 2020, for example. I understand that the Government's position may be that EU citizens who do not apply for settled status before the end of the grace period without a reasonable excuse are not legally entitled to indefinite leave to remain, but that is a restriction that the Government have put in place.

In the case of the Windrush generation, the Government have quite rightly accepted that those who have lived and worked in this country for decades but who were undocumented because they did not apply for British citizenship or a UK passport were treated wrongly, and they are compensating—too slowly, and inadequately—those who were wronged. The Government have accepted that these people were entitled to indefinite leave to remain, despite the fact that they did not apply for proof of their entitlement. Why are the Government repeating the same mistake with EU citizens?

I am sure that this statutory instrument is meant to be a positive step, but for me it raises more fundamental questions. It demonstrates clearly what the Government can do if they so wish—and what they wish to do is to penalise EU citizens in a similar way to which they penalised those from the Windrush generation, not because they do not have every right to indefinite leave to remain in the UK but because they did not apply for it. We support this SI as far as it goes, but it does not go far enough.

3.36 pm

Lord Ponsonby of Shulbrede (Lab): My Lords, I, too, welcome this instrument and, along with the noble Baroness, Lady Ludford, and the noble Lord, Lord Paddick, I shall raise a number of questions, many of which overlap with the questions that they have already asked.

The British Nationality Act provides that a child born in the UK automatically acquires citizenship where, at the time of their birth, at least one parent is British or settled. A person waiting for their settled status to be resolved or who is eligible but has failed to apply would not count as settled during that time. This instrument amends the current law and provides that, first, a child born after the end of the grace period may be considered British from the date that their parent is granted settled status after a late application, and, secondly, that a similar protection is given to a child born after the grace period where their parent

[Lord Ponsonby of Shulbrede]
had applied to the scheme before the deadline but was still awaiting their status on the date the child was born.

We welcome this instrument, which seeks to fill a gap in provision for children born while their parents are still awaiting confirmation of their settled status or who are eligible but enter a late application. For absolute clarity, will a child born in the UK under these circumstances automatically—and by that I mean with no separate application—acquire citizenship when their parents' status is confirmed to reflect the situation as it would have been before 30 June? Secondly, can I confirm that they will not have to register to access their citizenship and be charged the exorbitant fee, now declared unlawful, which children registering their British citizenship currently face?

Crucially, how will parents and children be alerted to the child's right to citizenship? That was a point that was emphasised by the noble Baroness, Lady Ludford, and the noble Lord, Lord Paddick. We welcome the fact that the non-exhaustive reasonable grounds for a late application have now been published. What is being done to reach those people who are eligible but have not made an application? Will public services that expectant parents come into contact with be aware of and able to advise on this law change?

The organisations the3million, Amnesty International and the Project for the Registration of Children as British Citizens have written to Home Office Ministers to welcome this step of securing children's rights to citizenship. They have asked them to seek to clarify the law under this instrument on a number of points.

One question is around what information will be made available to an EU citizen who becomes settled on or after 1 July about the provisions of new Section 10A, and what it means for any children of theirs. What records will the department maintain relating to: first, the timing of any application for settled status, particularly of persons applying by the deadline but whose applications are granted after that date; secondly, the eligibility of settled status immediately before 1 July of persons granted settled status on or after that date; and, thirdly, the reasons for a grant of settled status on or after 1 July? What records will be kept for those different scenarios?

A further question is whether the department will provide access to these records to the child to whom new Section 10A applies. What other steps will the department take to ensure that the child is able to confirm their British citizenship, whether during childhood or adulthood? This was a point that the noble Baroness, Lady Ludford, made as well. Will the department provide access to these records to the parent—whether the parent is an EU citizen or otherwise—adoptive parent, local authority or other carer with parental responsibility for the child?

On those still awaiting their settled status while the deadline approaches, what extra initiatives are the Government putting in place to handle the extremely high backlog of cases of people who applied in time but are waiting for a Home Office response? In May, the backlog stood at more than 300,000 cases. Can the Minister give an update on that figure? We know that people are already being impacted by the Home Office's delay and that it is affecting their ability to get a mortgage or their university applications. These applications have been held up by the wait people are currently undergoing.

On child citizenship more widely, earlier this year, the Home Office's £1,000 fee for children registering their citizenship was ruled unlawful by the Appeal Court. The court found that the Government had failed in their duty to consider the best interests of children impacted by this scandalously high fee. Can the Minister say what the Government's action will be when they reconsider this unlawful fee?

3.41 pm

Baroness Williams of Trafford (Con): My Lords, I will first answer the question on the citizenship fee from the noble Lord, Lord Ponsonby, because it is at the forefront of my mind. We are doing a Section 55 assessment at this point in time, so that is being reviewed. It will not necessarily change the fee, but nevertheless we are doing that which the court asked of us and doing that Section 55 assessment.

The noble Baroness, Lady Ludford, asked how many children—I presume she means in local authority care—do not have settled status. I am afraid I do not know the answer, but I can tell her that a lot of effort has been made to engage with local authorities to ensure that children whose corporate parent is the state are signed up to the settlement scheme. In any event, should that fail, they would very clearly come under the reasonable excuses category. We are being very pragmatic on the reasonable excuses category; we are taking a sensible approach to people who for reasons of disability, domestic violence or the local authority just not meeting their obligations, for example, would very clearly have come under the category of being able to apply to the EU settlement scheme being in scope of that reasonable excuses framework.

On the right to work and the implications after 1 July, I say to the noble Baroness, Lady Ludford, that landlords are under a duty to do those right-to-work due diligence checks. In line with that pragmatism from the Government, we will give people time, no matter what the issue—whether the right to rent or right to work—to prove their status. I think the time is 28 days, so people will be given time.

On whether the EUSS Covid guidance is being sent out this week, I certainly know it is being sent out. Again, going back to that pragmatism, people who have not been able to get here clearly have more than a reasonable excuse not to have been here.

To answer the question from the noble Baroness, Lady Ludford, yes, the guidance will be updated in the light of the statutory instrument. In line with other issues, we will try to communicate as widely as possible what those people who might be in scope of this statutory instrument will need to do.

Are we going to expand the reasonable excuses? The reasonable excuses guidance is, I think, one of those areas where, as time goes on, we may find that people will suddenly come into scope. We will keep that under review.

On outstanding applications, there is not actually a backlog because they are within three months of application; it is more that they are progressing through the system. About 300,000 applications are estimated to be in scope. I say to the noble Baroness and the noble Lord that that work in progress might concern those who are going through the criminal justice system, and people who do not have national insurance numbers are another set who are in scope. To be pedantic, it is not actually a backlog.

On the British citizens who have been sent letters, I saw the tweet on Saturday—I was at the derby so I did not answer it, but I thought I might give the official answer today. If the noble Baroness looks carefully at the letter, she will see that it very clearly states that if you already have status or indefinite leave to remain then you can ignore the letter. If she refers to the tweet, she will see it. We are criticised when we do not do things and then we are criticised when we have duplications. In this situation, they are duplicates. For the people who do not need to apply, that is clearly stated on the letter.

Citizenship is not retrospectively granted, like much in UK law. It is from the date that their parents get settled status.

I cannot remember what the noble Lord, Lord Ponsonby, asked, but basically, once the EU settlement scheme application submitted by the parent or parents is resolved through a grant of indefinite leave, known under the EU settlement scheme as settled status, which occurs after that birth, it is free of charge.

The noble Baroness, Lady Ludford, asked why the date. It reflects the ending of the grace period, that being the last day on which EEA residents' rights will exist for those persons resident here by 31 December 2020 and who have not made an application to the EU settlement scheme.

I think I have already attempted to answer the question on the number we expect. It is very difficult to know but, as I said, we are doing all we can to engage with people accessing things such as midwifery services to remind them to secure EU settlement scheme status for themselves and any expected children.

I think I have answered all the questions—I know the noble Baroness, Lady Ludford, is not happy with all the answers, but I think I have answered them all. If there are any supplementary questions, I would be very happy to answer them, given that we have plenty of time.

The Deputy Chairman of Committees (Baroness Finlay of Llandaff) (CB): I have noticed that the noble Baroness, Lady Ludford, would like to ask a supplementary question for clarification. If the Minister is happy, and given the time, I suggest we proceed. I call the noble Baroness, Lady Ludford.

Baroness Ludford (LD): I thank the Minister for her replies, and on the question of British citizens I confess I have not seen her tweet in reply, although it is true that I tweeted at her—I am glad she was actually enjoying herself on the day. But I could have got one of those letters. Why should a British citizen be judged to be within the scope of the cohort who should get a letter? I have seen some comments following that thread suggesting that there is some Home Office scoping exercise to see who it might be missing, but it does not inspire confidence that people with British citizenship who do not need to apply for settled status are getting letters. They are always official, if not officious, letters from the Home Office which put the wind up many people—and would do so for me if I got one—implying that there is something wrong with your existing status. If you are a British citizen and get this letter, you would be nervous. I do not understand what mistake, or deliberation, has led to British citizens getting the letter.

As a second point, I think the Minister—forgive me if I am wrong—did not address what happens to children born before 30 June whose parents make a late application, or do not make one at all, but where it is later resolved. The SI is all about children born after 30 June; if they are born before 30 June but their parents, for whatever good or not so good reason, are none the less delayed in getting their status, what happens to them?

Baroness Williams of Trafford (Con): A child born before 30 June whose parent has not applied to the EU settlement scheme—if it were just the child—would clearly have the reasonable excuse that their parent did not apply to the EU settlement scheme, even though they were born in the UK. That is the answer to that question. Clearly, we are now trying to capture those children born after 30 June whose parents have applied.

On the letter, the rationale behind it is that we wanted to capture as many people as we could, not as few people, so I acknowledge that people to whom it does not apply may have received letters. I can say to the noble Baroness that we are doing a data-cleansing exercise to try to reduce that duplication. We do not want to worry people, but we do want to make sure that as many people apply as possible.

Motion agreed.

3.53 pm

Sitting suspended.

Arrangement of Business

Announcement

5 pm

The Deputy Chairman of Committees (Lord Lexden) (Con): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person while others are participating remotely, but all Members will be treated equally. I ask Members in the Room to respect social distancing. If the capacity of the Committee Room is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. The time limit for this debate is one hour.

Health Protection (Coronavirus, Restrictions) (Steps and Other Provisions) (England) (Amendment) Regulations 2021

Considered in Grand Committee

5.01 pm

Moved by ***Lord Bethell***

That the Grand Committee do consider the Health Protection (Coronavirus, Restrictions) (Steps and other Provisions) (England) (Amendment) Regulations 2021.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, on 17 May we moved to step 3 of the road map, which seeks to maintain a balance between our social and economic priorities. We need to save lives and prevent a surge in infections, and we need to relieve businesses that have suffered from closures and restrictions on social contact.

As ever, the decision to move to step 3 was informed by data from the Joint Biosecurity Centre, the Scientific Pandemic Influenza Group on Modelling and Public Health England. I express profound thanks to the analysts and academics who support these efforts. The surveillance evidence, epidemiological modelling and policy analysis that support these decisions are a tribute to the highest standards of the British Civil Service.

I want to seize this opportunity to set out some of the very latest data that has been presented to Ministers. As noble Lords will remember, there are four tests. The first is that the vaccine deployment continues successfully. As of 6 June, vaccination uptake is at 76.6% for the 18-plus UK population for the first dose and 52.5% for the second. These figures are aligned with the Government's published plans and they are a remarkable achievement, but there is more to do.

The second test is that the vaccine continues to be effective at reducing hospitalisations and deaths. Data available at step 3 suggests that two doses of the Pfizer vaccine reduced overall symptomatic disease by up to 80% or 90%, hospitalisations by 90% to 95% and deaths by around 95%, with a similar effect reported for the AstraZeneca vaccine. This is hugely encouraging. In the week ending 21 May, when we moved to step 3, the weekly registered deaths had reduced by 70%. More recent figures show that between 31 May and 6 June there were 59 deaths within 28 days of a positive coronavirus test. That is clear evidence that the vaccine works. However, we must not be complacent. As restrictions ease and social distancing measures are relaxed, we must continue to be vigilant.

The third test is that infection rates do not risk a surge in hospital admissions, putting undue pressure on the NHS. This risk is massively mitigated by the progress of the vaccination programme across the UK. Daily hospital admissions continued to fall throughout March, April and early May. Since we moved to step 3, the number of infections has also been increasing. This is what we expected when lifting some restrictions on social contact. For the seven-day period ending 1 June there were 25,888 new cases across the UK, at a rate of 38 per 100,000. There are some regional variations, with particularly high case rates in parts of north-west England. Despite that rise, the positivity rate in England remains low and is currently at 1.3%. There were 151 daily hospital admissions in the UK on the last complete collection date of 1 June. It is steady as it goes.

The fourth test is that our assessment of the risks is not fundamentally changed by variants of concern. For the seven-day period ending 19 May, there were 2,111 new cases of the delta variant recorded, making 3,424 total confirmed cases. In the same seven-day period there were 7,066 new cases of the alpha variant, making 249,637 total confirmed cases. At this point, the delta variant made up less than one-third of all VOCs.

With cases, admissions and deaths continuing to fall, surge testing in place, the vaccine rollout on track and vaccines proving effective, we judged that the tests to move to step 3 had been met. This does not mean that there is no risk. Indeed, we are extremely alert to the potential for new variants of concern to lead to a rapid worsening of the pandemic.

The assessment from SAGE and the evidence from PHE is that the delta variant is much more transmissible. We deployed a widescale test and trace response across the areas affected by the delta variant, including surge testing in areas such as Bolton and Blackburn. In addition to the existing test and trace support payment, local authorities have significant discretionary funding to offer additional financial support to those who need it. In Blackburn and Bolton, this will include trialling broadening eligibility during surge testing, so that all those who are required to self-isolate, who cannot work from home and earn under £26,000, receive a £500 payment. As ever, we continue to keep the data under close observation, and the Government will not hesitate to take firm action if necessary to protect lives and livelihoods.

That is the context of the decision, and it is a decision that has led to a real lift in the mood and optimism across the country, as a result of the changes made by these regulations. Many businesses have reopened and people are enjoying greater freedoms; they can meet more friends and family and more people can now attend funerals to say goodbye to their loved ones. Weddings, receptions and other commemorative events can be bigger, and we have moved from legal mandating and government rules to guidance which asks people to take personal responsibility when meeting friends and family. The regulations also made some important changes on face masks and table spacing, and we listened to the expertise of the Joint Committee on Statutory Instruments and made some minor technical changes to clarify drafting.

I regret that we are debating these regulations only now, and I regret that they were not laid before they came into force, but, despite our best efforts to lay out a clear and timetabled road map with a predictable parliamentary programme, events moved very quickly—much more quickly than the processes of parliamentary procedure. Noble Lords will remember that the Prime Minister addressed the nation on 14 May to set out that the delta variant was more transmissible and there were some important unknowns. This gave us good reason to consider very carefully our approach and to fine-tune arrangements, and that delayed the smooth running of this process.

I know more than anyone the frustrations felt by noble Lords about those delays, but I very much hope that noble Lords will remember the concerns of that time and appreciate that we waited to have the appropriate data to make these vital decisions. We have sought to expedite these important regulations as much as we can while juggling a difficult situation. The easing of restrictions thus far is hugely welcome and, while we must continue to be cautious, we have good reason to feel optimistic about the future. We will remain vigilant and continue to manage the risk to safeguard the benefit of our collective effort so far.

Finally, I thank once again every person and organisation who is supporting the fight against coronavirus and colleagues here for their contribution to this Committee sitting. I commend the regulations to the Committee.

5.08 pm

Lord Scriven (LD): My Lords, if ever we wanted an example of the farce that parliamentary democracy has become, these regulations should be an example that is studied for years. The Government had known for months that the date of 21 June was coming, yet still they decided to use emergency legislation to get their own way. Then they laid these regulations on the day they were to become law—in fact, at 11 am. Then they had to redraft them because parts of them were wrong.

This is a pattern of behaviour by the Government, using whatever means they decide to push through emergency legislation on Covid and using the signature of a Minister's pen as a substitute for detailed parliamentary scrutiny and amendment. Emergency legislation was required on some issues, but not on this issue. The House and the other place need to stop nodding through this kind of emergency legislation as a matter of course.

An example of the potential unintended consequences of these regulations is the expiry on 20 June of the Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020. I declare my interest as a vice-president of the Local Government Association. These are the regulations that give local authorities the power to enforce Covid restrictions and give fixed penalty notices for breaches. As we move to a situation in which local lockdowns will become more important if we see clusters of cases around new variants, what powers will exist to ensure that local authorities can make sure local restrictions will be adhered to? Or will we have the perverse situation of more knee-jerk emergency legislation every time we see a local outbreak so that local authorities can fulfil their duties? Will the Minister please clarify this issue?

The reason all this matters is that Covid-19 will be with us for years to come. It is moving into the endemic stage. Emergency legislation is not acceptable, or indeed desirable, for managing an endemic. The Government now need to bring forward legislation about how we live with Covid as an endemic and stop relying on such regulations. The endemic means we move away from binary extremes and have legislation that is much more subtle and nuanced about how we deal with the complex issues for freedoms, health and the economy and that finds a new balance in this Covid world—a way of trying to keep as much open as we can while keeping the virus circulation and harm as low as possible. We have done it before with other diseases.

Very sensitive issues will have to be addressed as to what level of death the country accepts, as we do with flu, before more serious public health restrictions are enacted. Issues of ventilation and how it affects building standards and building control are important if we are to see large parts of the economy remain open every time we have a new variant or local surges.

What are the new ways of working for education, to keep access to knowledge and learning open and ensure that young people have access to their education? Again, the endemic stage will require changes that will have legal implications about when, where and how education takes place. At what stage is government thinking on this? When will proposals be brought forward for the legal implications for health, the economy and our freedoms of living in the endemic stage of Covid?

It also has big implications for the effect of self-isolation, which is an issue that has yet again to be raised because of the total lack of support, both financial and practical, for many who cannot afford to isolate for the whole period. I note that the Minister agrees that the present system is not acceptable, and that is why local authorities are piloting, but we need a national system of people being paid their salary, as in other countries, so that they can afford to remain isolated for the total period. What percentage of people asked to self-isolate carry out the full period of isolation required? How do the Government measure that? If the Government will not bring forward full financial support, such as paying people their wages, when all the evidence now shows that it is a barrier to people self-isolating for the full period, why not?

After 16 months of the country living with Covid, it is time for the Government to stop treating it as purely a public health emergency. They must bring forward detailed plans and legislation that deal with the ongoing implications of Covid as an endemic. The longer the Government refuse to do this and continue to bring forward only emergency legislation, the more the country will suffer and not be equipped to live with the long-term effects of Covid.

5.14 pm

Lord Lansley (Con): My Lords, I am glad to have the opportunity to follow the noble Lord, Lord Scriven, although I will not follow him in the criticism of process. I think the need for rapid legislation from time to time has meant that we are always catching up on some of the processes. I want to use this opportunity—which my noble friend has highlighted—to look at where we are and where we need to go in the week or two weeks ahead.

My first point, which I think my noble friend rightly emphasised, is that we are at the stage where we should move from legislation to guidance. One problem associated with the latest step 3 shift is that the public thought that everything the Government are asking them to do has to be in legislation. The enforcement of

[Lord Lansley]
that has been quite burdensome from time to time. At the same time as moving to step 3, the Government added guidance, for example in relation to the eight local authorities that had the delta variant present. They did not publicise the guidance sufficiently and the confusion that arise from that was really regrettable.

Likewise, on 17 May, the ban on international travel was relaxed but at the same time Ministers were talking about the absence of international travel in ways that suggested that they were still enforcing a ban on non-essential travel. That was not the case. It is quite understandable that the public have become very confused. When the announcements are made for 21 June, we should stick with that date and make it very clear that we are shifting from a position where legislation has been required to one where guidance on future social distancing and preventive measures should be much clearer and consistent.

We should not be emphasising that from 21 June we are lifting all restrictions—we are moving to a new phase. In that respect, the noble Lord, Lord Scriven, is right, but I do not think that we need permanent legislation for this purpose. We need permanent adjustments in behaviour. We should be encouraging people to do things such as wearing masks, social distancing, working from home, ventilation, or having outdoor gatherings much more than indoor ones.

We have made enormous progress. I echo what my noble friend said about that. Obviously, vaccination is a really impressive achievement. Where testing is concerned, I do not share so many of the criticisms. The problem was not that test and trace did not expand its capacity but that people overestimated what it was capable of doing last year. We are at risk of underestimating what it is capable of doing this year.

When we shift the guidance, we should make large-scale lateral flow testing freely available, as we are doing now. On the basis of what we have seen in schools, we should encourage workplaces and employers to use lateral flow tests every other day to enable them to be confident that their staff are free of the infection. On that basis they can return to work, they can meet and they should be able to undertake international travel.

At this stage we need to make a distinction between travel for leisure and travel for work. British companies should be able to send people abroad and bring them back without long periods of isolation as long as they are having lateral flow testing. We have to get away from four PCR tests. That is a very burdensome thing to ask people to do, whether for leisure or for employment purposes. It is something approaching £400 per person, per visit and that should not be applied over the months ahead. We have a substantial vaccination programme that is giving people a high degree of protection. We are seeing every hope that we are breaking the link between infection, severe disease and hospitalisation. To the extent that that happens with doubly vaccinated people, we should go with it.

Finally, on international travel, I ask my noble friend why are we not including some countries on the green list? Look at Malta, for example. It now has no cases and the best vaccination record among European Union countries. It is iniquitous that we are not distinguishing those countries that should be on the green list and giving them the benefit of that designation.

5.19 pm

Baroness Tyler of Enfield (LD) [V]: My Lords, at the risk of sounding like a broken record, I start by pointing out that we are yet again debating whether to approve a statutory instrument that came into effect three weeks ago, as part of a road map that was set out months ago. At this point in the pandemic, the urgency rationale just does not hold water, so it has become either a bad habit that the Government are unable to kick or simply contempt for parliamentary scrutiny. Neither is a good sign for a healthy democracy.

Turning to the substance, it feels somewhat ironic that these regulations bring back international travel for leisure. In recent days we have witnessed chaos over last-minute changes to the green list, causing huge problems for passengers and the travel industry alike. With long queues at packed airports in Portugal as people try to purchase tickets, often at vastly overinflated prices, on planes packed to seating capacity, and with people reporting difficulties getting pre-departure tests, is this really the best we can do?

As far as I can see, the amber list is simply causing confusion as to whether or not it is okay to travel to a country for leisure. We would not want to encourage people to drive through amber at traffic lights, so why are we giving this option for travel? Is not a straightforward "Yes, you can travel there" or "No, you can't" easier for all to understand and plan around? Can the Minister say what plans the Government have to review the effectiveness of the traffic light system and our border control measures, including verifying test results for international travel?

Like others, I am sure, I was interested to read that the Chancellor of the Duchy of Lancaster is now participating in a pilot offering daily lateral flow testing for seven days as an alternative to isolation, following his trip to Portugal. It appears from press reports that other football fans receiving similar such texts from NHS Test and Trace were told to self-isolate for 10 days. Can the Minister explain the criteria to qualify for this pilot, when it was introduced and when its results will be published?

Test, trace and isolate remains a hugely important weapon in our armoury for fighting this virus. As restrictions ease, surely we should adapt our isolation support and testing strategies to incentivise isolation. From these Benches, we have called time and again for financial support to enable people on low incomes to isolate effectively. With cases now thankfully at lower levels, can the Minister say what resources are being provided, and to which local authorities, to allow the isolation pilots he referred to—he referred to payments of £500—to happen?

Much store is being placed on the announcement the Government will make on 14 June regarding step 4 of the road map, currently scheduled for 21 June. Over the weekend, some leading scientists have been calling for the easing of restrictions to be delayed. We have been repeatedly told that the Government will be driven by the data on the four tests, including the risks

posed by new variants of concern, rather than simply the dates in the road map. With some regulations due to expire on 20 June, as my noble friend Lord Scriven pointed out, what is the scope for extending these regulations if the data requires it? Will we have fresh legislation? What is the contingency plan? Finally, what additional resources are being given to handle variants of concern? I hope the Minister can reassure me on these points in summing up.

Finally—I think I am in very much the same place as the noble Lord, Lord Lansley, on this—the stark truth is that the virus, with its inevitable mutations and variants, is not going away any time soon. Like it or not, we will have to find a way of living with Covid-19 for some time to come. That will mean changes in how we conduct our everyday lives, including how we do our business in this Chamber. This may be an inconvenient truth to some, but the alternatives are far worse. We need to get away from the current narrative that a so-called freedom day is coming fast and that everything can go back to precisely how it was pre-pandemic. We will have to learn to do things differently, and that needs a more grown-up, nuanced conversation which does not revolve around the two extremes of dropping all measures immediately or returning to lockdown. I think that is what most people want and expect.

5.24 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, it is a great pleasure to follow the noble Baroness, Lady Tyler of Enfield. I very much agree with her concluding comments about the fact that there is no freedom day: we will not go back to normal, certainly not in the short term. It is, as my noble friend Lord Lansley also said, a matter of accommodating our processes and adjusting to the new realities. I also thank my noble friend the Minister for setting out so clearly and concisely, as he always does, the effect of these regulations and for updating the Committee on the four tests or factors affecting the lifting of regulations.

I support the regulations but I regret that we are not seeing them in advance of their coming into force. I hope my noble friend can say something about a future scenario where we can perhaps expect that, as we move to a position where the regulations will not be so restrictive. It would be good to hear my noble friend's views on that.

I support the regulations and the policy of stepped moves out of lockdown. That seems the right way forward. The easing of restrictions on outside gatherings and those attending funerals is absolutely appropriate. It is right that this phased approach is taken towards restrictions and that they are relaxed as the evidence demonstrates that a letting up on restrictions is appropriate. That is the right approach.

Like others, I congratulate the Government and my noble friend on the success of the vaccination programme. It has been outstanding. It is only fair that that should be acknowledged. It is at the centre of the Government's success in this area and a tribute to the National Health Service, volunteers and all those concerned.

What remains a major challenge, as identified by others speaking in the debate, is international travel. This area of activity is relaxed by these regulations too. I will press my noble friend on this. A potential weakness identified previously is represented by travellers coming into the country from high-risk countries, who might pass on the infection before they are quarantined. This presents a challenge principally, though not exclusively, at Heathrow. I am pleased with the red country terminal arrangements at Heathrow. Could my noble friend update the Committee on their success and how they are working? Are we ensuring that special arrangements are made to split passengers from red list countries from other destinations at other airports too, where there is unlikely to be more than one terminal? It would be good to hear that these sensible arrangements are being applied across the country.

What arrangements are being made to ensure co-ordination with the devolved Administrations, particularly in this important area of travel and the operation of our UK airports, where a consistent approach is clearly needed? Could my noble friend comment on the recent summit between the Prime Minister and the First Ministers of the devolved Administrations, and any discussion that there was on co-ordination on coronavirus actions and policy?

Lastly, I make a plea for continued efforts to ensure that COVAX is working successfully to help countries across the world, particularly those unable to act as speedily and effectively as we have done. I know that my right honourable friend the Prime Minister has this very much at the centre of his approach and is making it a central plank of the G7 summit coming up in Cornwall. It would be good to hear my noble friend's thoughts on this. With those comments, I am very pleased to support the regulations.

5.28 pm

Lord Bhatia (Non-Afl) [V]: My Lords, this SI has been prepared by the Department of Health and Social Care. The instrument revokes and replaces the health protection regulations 2020 and contains the legislative framework that will implement steps 1 to 3 of the Government's road map out of lockdown in England. This instrument enables a number of public measures to be taken to reduce the public health risks posed by the spread in England of severe acute respiratory syndrome coronavirus 2, which causes the disease Covid-19. The SI also amends a number of other coronavirus regulations.

This SI is made under the emergency procedure set out in Section 45R of the Public Health (Control of Disease) Act 1984. Furthermore, this instrument is made without a draft having been laid and approved by a resolution of each House of Parliament. It is the opinion of the Secretary of State that, by reason of urgency, it is necessary to make this instrument without a draft being laid and approved, so that public health measures can be taken in response to the serious and imminent threat to public health posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2.

This instrument was laid and published and came into force on 29 March 2021, and the measures will expire at the end of 30 June 2021. This instrument will cease to have effect at the end of the period of 28 days,

[Lord Bhatia]
beginning on the day it was made, unless during that period it is approved by a resolution of each House of Parliament. The Secretary of State must review the need for the restrictions imposed by this instrument at least every 35 days, with the first review taking place by 12 April 2021.

I support this SI as put forward by the Minister.

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): My Lords, the noble Baroness, Lady Gardner of Parkes, has withdrawn, so I call the noble Baroness, Lady Brinton.

5.31 pm

Baroness Brinton (LD) [V]: My Lords, I declare my interest as a vice-president of the Local Government Association. As my noble friends Lord Scriven and Lady Tyler have said, once again we are reviewing and considering these regulations weeks after they have been implemented and published, in that order. It appears that even the routine renewal of SIs is a total surprise to the Government—or they may be treating our democracy with contempt.

The Secondary Legislation Scrutiny Committee noted:

"These national provisions came into effect on 17 May. However the Government published guidance on 21 May which said that to combat 'the Indian variant' people … should meet outside wherever possible and travel in and out of those areas should be avoided. This change was not publicised by the Government and caused considerable confusion … It appears that this situation was in part caused by continuing confusion over the status of government guidance and in part by failures in how the advice was communicated."

The committee says:

"Recent events have illustrated why this is a significant problem: Guidance associated with both the travel regulations and the changes to restrictions in certain areas … have this week caused confusion for the public and have given rise to questions about enforcement, both of which undermine the effectiveness of the advice given."

The blurring of lines between guidance and regulation, combined with poor communications, is a serious error that made the regulations unworkable, as the Government discovered to their cost.

These SIs will expire on 20 June, as other noble Lords have said—when Ministers, members of SAGE and scientists are all saying to us on a daily basis that the complete ending of restrictions is now very finely in the balance because of the steady increase in Covid delta variant cases over the last month, with cases back up to over 5,000 a day. Is this the right time to lift the ban on pupils wearing masks, when we are now seeing evidence of high spread in schools, including in Cherry Tree Primary School in my home town of Watford?

We agree with the Government that data, not dates, must rule the next set of decisions. What additional resources are being given to local authorities and local resilience forums to help them handle surges in variants of concern? Our local directors of public health are doing an excellent job but, in the areas of high surge, there are requirements for substantial intervention, which costs money. Can the Minister say whether those areas of high surge are receiving extra resources over and above the planned allocation for this year?

The Minister knows that on these Benches we believe in the importance of test, trace and isolate to keep people safe. I was slightly surprised this morning to hear the noble Baroness, Lady Harding, say on "Woman's Hour" that she was dismissive of its key importance. We believe that it is clearly a vital tool to manage new variants and outbreaks.

The noble Baroness, Lady Harding, like Matt Hancock, talked a great deal about the progress of vaccination, and we applaud that progress. However, over the weekend the Secretary of State said that vaccination had "severed" the Covid link but "not broken" it. Pardon? The dictionary definition of "sever" is "break off". Can the Minister explain what "severed but not broken" means?

The regulations are silent on advice for those people who, despite shielding being formally ended by the Government, are still under strict advice in letters from the Secretary of State to stay at home wherever possible, to get others to shop for them and not to go into any environment where social distancing is likely to be breached. The Government have been totally silent, but the charities Blood Cancer UK and Anthony Nolan have repeatedly asked for clear guidance for those who are immunocompromised and who have been told that, despite having two jabs, they are unlikely to have the antibodies for long. Will the Minister agree to meet me, them and other noble Lords interested in this issue? What provision is being made for this group of people, their families and friends to guide them through the next stage of learning to live with Covid? Total silence from the Government puts them in an impossible position, and possibly in unsafe surroundings.

We note that the regulations bring back international travel for leisure. We have repeatedly asked for clearer, broader rules, but today all we see is chaos at airports in Portugal as people rush back to avoid having to quarantine. Is this really the best way to do things? Can the Minister say whether the previously ineffective border measures—leading to queues at airports, people jumping on public transport to get home and people having to leave quarantine to get their tests done—have all now been resolved? In particular, are there improved checking arrangements to find forged test results?

The Minister has mentioned the pilots on isolation. Can he give us more details on those? What are "considerable payments", and who is eligible? On the problem of people coming forward to self-isolate, the noble Baroness, Lady Harding, said this morning that the problem was getting them to come forward to say that they had had a lateral flow test in order to be able to go on working because they needed to earn money. Surely now is the time to reassure people by paying them their wages for self-isolation rather than asking them to go through a ridiculously complex means-tested application procedure.

If the Minister cannot answer all my questions now, please will he write to me with details?

5.37 pm

Baroness Thornton (Lab): My Lords, by now the Minister must realise that we are very fed up at being asked yet again to retrospectively approve significant legislation that impacts on individual liberty, well-being

and livelihoods, three whole weeks after they came into effect. Are we fed up? The answer is yes. However understanding and apologetic the Minister might have been in his pre-emptive words about this, it is time that this came to an end and the usual practice of accountability was reinstated.

My first question, which I suspect the Minister will say is above his pay grade, is: can he give the Grand Committee a date from which we can expect to discuss these important matters in advance of them being enacted? The noble Lord, Lord Scriven, and other noble Lords are quite right that it is time to stop using emergency legislation for these issues and to use it instead when there is an emergency. The regulations were made on 14 May and came into effect on 17 May. While admittedly that is progress, it still falls woefully short of the threshold for using emergency-made procedures.

Of course, like the Minister and other noble Lords, I welcome the vaccine rollout and its increasing effectiveness. The regulations allow six people or two households to gather indoors, and up to 30 people outdoors. Weddings and funerals are now permitted, and all remaining outdoor entertainments and indoor hospitality can now reopen. All those things are of course enormously welcome.

The statutory instrument amends the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations to provide an exemption for gatherings for specified education and training purposes in community premises. This mirrors the policy for schools and further education providers. But given that cases in many hotspot areas are concentrated on school-age children and young adults who have not yet had the opportunity to be vaccinated, does the Minister think it might be premature to announce that face coverings will no longer be required in secondary school classrooms and communal areas from 17 May?

I am asking this because we can see that a number of local public health authorities in the north-west have issued recommendations to secondary schools about using face masks again due to the rising Covid-19 transmission rates across the community, largely due to the delta variant. That underscores the need for greater powers for local authorities to introduce measures as and when needed. In a way, that echoes the remarks from the noble Lords, Lord Lansley and Lord Scriven, about the transition we need to be in to live with this. That might mean that, in some areas, you might need to wear masks in some schools and not in others, for example.

I turn to the confused mess that is international travel, as mentioned by most speakers. These regulations remove the prohibition on international travel and the requirement for individuals to declare their reasons for travelling abroad. If this is a shift from regulation to guidance, it really has not worked. We on these Benches believe that the traffic light system, where the Government are advising people not to do what is allowed, coupled with very lax quarantine requirements when they come back, is flawed. Indeed, the Prime Minister said:

"It is very, very clear … you should not be going to an amber list country except for some extreme circumstance, such as the serious illness of a family member. You should not be going to an amber list country on holiday."—[*Official Report*, Commons, 19/5/21; col. 692.]

Yet, travellers are allowed to travel to amber list destinations without proof of an essential reason and some holiday companies are offering holidays to amber list countries. Indeed, the confusion over the amber list has led to reports of more than 50,000 people travelling to the UK daily from countries with rising Covid numbers and only a tiny percentage going into hotel quarantine. Does the Minister accept that the system is leaving the door wide open to new strains of the virus and risks undermining the lockdown sacrifices of the British public and the success of the NHS vaccine?

I am sorry that the Government seem not to have learned from their previous mishandling of travel restrictions. We needed robust quarantine measures in place for people coming back into the country. Moving Portugal to the amber list is not the answer. Surely the answer is that the amber list should be scrapped—either countries are red or they are green.

We need the Government to be more vigilant about emerging threats. I want to talk about the C363 variant, which is linked to Thailand. It was designated as a variant under investigation on 24 May and 117 cases have been identified in the UK, with over 37% of cases originating from travellers into the UK. Vietnam is also experiencing a significant rise in cases, potentially as a result of this new variant. It seems that the delay in adding India to the red list made us vulnerable. I hope the Minister can assure us that Thailand and Vietnam should urgently be added to the travel red list.

Given that Ministers have promised to provide a week's notice of changes, and with 14 June being next Monday, when will we hear from the Prime Minister about what happens next? Can the Minister assure the House that we will have the chance to see and debate these regulations before they come into force? We all know by now that lifting restrictions will lead to further spread. What is less clear is whether the increase in Covid hospital admissions will be a wave or a ripple. What is the Minister's view?

5.43 pm

Lord Bethell (Con): My Lords, I am enormously grateful for a very thorough debate on these regulations and I will try to pick off the key points. One point is the question of guidance versus law, which almost all noble Lords spoke about. My noble friend Lord Lansley put it extremely well. He is right that it is the British way to seek to use guidance and to appeal to people's best nature wherever we possibly can; it is our default setting in this country. I for one very much welcome the move from legislative impetus to guidance. I think almost all have welcomed that principle.

However, I am afraid that it is an inevitable consequence of moving from law to guidance that you leave a degree of interpretation up to the British people. That is a dilemma we have to wrestle with in government. I acknowledge the communication challenges. I have said from the Dispatch Box and that I thought one or two things might have been done better, but we have given the British public discretion on how they interpret some of the guidance, particularly on travel.

[Lord Bethell]

The truth is that the British public are very clear about the guidance we have provided and are incredibly consistent in their behaviour. Despite the suggestion made by some noble Lords, there has not been an explosion of foreign travel. Quite the opposite: the number of people who went to Portugal while it was open was relatively small. Adherence to isolation, which was raised by the noble Lord, Lord Scriven, remains incredibly high. For positive cases it is around 90%, and for contacts of positive cases it is around 85%. The British public are much clearer in their heads than perhaps some would give them credit for. The public understand that the Government sometimes allow people to do something while not recommending it, much like with smoking.

We are at a stage of the pandemic—the infection rate is currently relatively low—where it is proportionate and reasonable to use guidance over the law and to accept that there are some friction costs to that, but they are within the range of acceptable risk. We are at a stage where things are generally getting better. We hope that we are on a journey out of this dreadful pandemic. It is therefore entirely right that we seek to move away from legislation wherever we possibly can.

My noble friend Lord Lansley made the point on testing, and the noble Baroness, Lady Brinton, raised my noble friend Lady Harding's comments earlier. My noble friend Lord Lansley is right: the capacity of testing to make an impact on the infection is possibly underestimated at the moment. I cite the example of schools, where 65 million LFDs have been used since the beginning of the year to huge effect. We were extremely concerned about infection rates in schools on their return, and the presence of a new, highly transmissible variant is something we watch extremely closely indeed, but pupils, parents and teachers have worked incredibly hard to use the latest technology to keep a lid on transmission rates. That has worked incredibly well. I note my noble friend Lord Lansley's points about business travel and will take them away with me. The cost of tests is coming down dramatically, and I would be glad to share details of that with him.

The noble Lord, Lord Scriven, and others spoke about the late arrival of these regulations, for which I express genuine personal regret, but I push back against noble Lords who express outrage and concern. I remember the run-up to 14 May extremely well indeed. I have in front of me, on my computer, the chart of the growth of the Indian variant. Even now it puts chills down my spine as I look at it. Naturally, we were extremely worried about a relatively unknown variant for which we did not have a genomically sequenced example. We had no idea about its impact on hospitalisation and death, but we kept our nerve. We waited for the data to come in from the clinics and for the virologists and biologists to do their work. In the end, we had made the right decision and were able to proceed with these step 3 regulations as intended, and as very clearly outlined in the road map. Although there was a delay in the paperwork, we were able to deliver on our commitments in that area.

There is no way we can ignore the data. In fact, in other matters noble Lords are absolutely emphatic that we should follow the data. This is just a direct and unavoidable consequence of that commitment. We face the same dilemma today. We are not fully clear about the serious illness and hospitalisation impacts of the delta variant. We are waiting for NHS statistics to come in. The CMO has made it clear that he feels we will have significantly more information on that at the end of next week. Until then, we have to hold our course. This is the pattern of these waves and will continue to be so. The fact that our constitution allows us to have agile legislation that adapts to the circumstances is a benefit, not a disbenefit, of the British way of doing things.

I reassure the noble Lord, Lord Scriven, that the Coronavirus Act will last until March 2022. The PCMs to which he referred are largely driven by Section 2 of the 1984 public health Act. Analysis of emergency powers is currently being undertaken by the Constitution Committee, to which I have already given evidence. I recommend that the noble Lord engages with it.

The noble Baroness, Lady Brinton, talked about the immunocompromised, a subject that I am extremely concerned about, as I know she and other noble Lords are. I pay tribute to the work of Birmingham University and the Octave trial. This is a huge challenge for those who have little by way of an immune system. The vaccine clearly will not work in the same way as it does with those with a fully charged immune system. There are huge opportunities from therapeutics and antivirals. We are chasing those down very actively, but I would be glad to meet with her, Anthony Nolan, Cancer Research UK and any other charities she would very helpfully like to convene.

My noble friend Lord Bourne spoke about travellers from the red list. I pay tribute to the managed quarantine system. Last week, there were 115,000 passengers into the UK. Only 9,000 of them were from the red list; 92% of those were through Heathrow. I pay tribute to Heathrow and the creation of its new red terminal. We have to accept that the red list may well be here for some time, but I am very optimistic that we can make huge progress on foreign travel. The mutual recognition of double vaccination protocols is being discussed at the very highest levels and offers a way out from the impact of this awful pandemic. I am optimistic that foreign travel will be able to start soon.

By way of a wind-up, I shall address the noble Baroness, Lady Tyler, who said that the pandemic is not going away anytime soon and give evidence of how dramatically our lives will change, largely for the worse. I am much more positive. Ultimately, the vaccine does work. If it works on the variants we have today, there is every reason to hope that it will work on future variants. We have learned a huge amount about therapeutics, antivirals, diagnostics, tracing, surveillance and treatment of the ill. Where we have a challenge as a nation is in public health, which has been found wanting. The health of the nation is far too poor. We weigh too much, smoke too much and drink too much, and we go into illness in a poor condition. That is the challenge we face as a nation, and the one we will turn to once the pandemic is out of the way.

Motion agreed.

5.54 pm

Sitting suspended.

Arrangement of Business

Announcement

6.05 pm

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person and others are participating remotely, but all Members will be treated equally. I ask Members in the Room to respect social distancing. If the capacity of the Committee Room is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. The time limit for this debate is one hour.

Myanmar (Sanctions) Regulations 2021

Considered in Grand Committee

6.05 pm

Moved by ***Lord Ahmad of Wimbledon***

That the Grand Committee do consider the Myanmar (Sanctions) Regulations 2021.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, the instrument before us was laid on 29 April under the powers provided by the Sanctions and Anti-Money Laundering Act 2018. It revokes and replaces the Burma (Sanctions) (EU Exit) Regulations 2019, which had previously established the UK's sanctions regime in respect of Myanmar.

The 2019 regulations brought the policy effect of the EU's Myanmar regime into UK law at the end of the transition period. This regime was designed as a response to the serious human rights violations committed by the Myanmar security forces, including widespread and systematic attacks on ethnic minorities and the ethnic cleansing of the Rohingya in 2017.

As noble Lords will be aware, on 1 February this year the Myanmar military launched a coup which disregarded the democratically expressed will of the Myanmar people, arresting Aung San Suu Kyi among many others. Peaceful protest has been met with brutal force, with over 700 civilians killed and more than 4,000 people detained. There are credible reports of torture. Humanitarian relief organisations have been refused access. Internet shutdowns, and the intimidation and persecution of civil society, have restricted access to information and journalistic freedoms.

Her Majesty's Government are pressing the military to return power to the democratically elected Government of Myanmar, to protect the rights and freedoms of the Myanmar people, including their right to political protest, to release all those arbitrarily detained and to ensure the unobstructed humanitarian access that is so desperately needed.

Targeted sanctions are very much part of our collaborative response. However, the 2019 regulations did not contain purposes or designation criteria that would allow us to make designations in relation to the coup. The Government therefore took the decision to revoke and replace the 2019 regime.

The new regulations we are considering today expand the purposes and designation criteria from those set out in the previous 2019 regulations. Our new regime aims to: promote peace, security and stability in Myanmar; promote respect for democracy, the rule of law and good governance; discourage the repression of the civilian population; and promote compliance with international human rights law and respect for human rights.

As for designations, the regulations enable us to designate not only members of the Myanmar security forces but any other individuals or entities that meet the designation criteria, including those supporting the military junta. We are now able to designate people not only for committing serious human rights violations but for undermining democracy, the rule of law or good governance, repressing the civilian population, violating international humanitarian law, obstructing humanitarian assistance activity or any other action, policy or activity which threatens the peace, stability or security of Myanmar.

Significantly, the regulations now give us the power to list entities under our geographic regime, allowing us to target the military's economic interests and demonstrating that we stand in solidarity with the domestic movement to boycott businesses linked to the military. In this respect, on 17 May we used these regulations to designate the Myanmar Gems Enterprise. Gems are a multibillion-dollar trade in Myanmar, and a key source of revenue for the military junta.

In addition to expanding the purposes and designation criteria, the new regulations create another licensing purpose for financial sanctions, enabling the Treasury to grant a licence to conduct otherwise prohibited activities if they are in connection with humanitarian assistance activity. This helps ensure that the effects of the sanctions are targeted and that there is no unintentional impact on humanitarian operations. The substance of the regulations before us is otherwise the same as set out in the previous legislation, and the types of sanctions measures permitted—financial, trade and immigration—have not changed.

It is important to note that the new regulations retain the comprehensive arms embargo which the UK worked to secure while we were a member of the European Union. They also retain trade prohibitions on dual-use items for military use, as well as items that could be used to intercept or monitor telecommunications and repress the civilian population. Finally, the regulations prohibit the provision of military-related services, including the provision of technical assistance to or for the benefit of the Myanmar security forces, which are defined to include the Tatmadaw, police force and border force.

[Lord Ahmad of Wimbledon]

Of course, sanctions are only one element of our response to the coup. We have been at the forefront of the international response, drawing on our presidencies of both the G7 and the UN Security Council, as well as our positive relationships with ASEAN member states and others in the region. At the G7 Foreign and Development Ministers' meeting on 4 and 5 May this year, we ensured that G7 countries were aligned in calling for the military to restore democracy to Myanmar. We also succeeded in committing all G7 countries—for the first time—to preventing the supply, sale or transfer of weapons, munitions or other military-related equipment to Myanmar.

Similarly, our leadership at the UN Security Council has kept the issue at the forefront of the council's agenda. We have secured a succession of strong council statements which condemn the violence, call for the release of political detainees and support Myanmar's democratic transition. Crucially, we are working closely with civil society to build community resilience and help create the foundations for a more open, inclusive and democratic Myanmar.

However, sanctions provide an important tool to take concrete and meaningful steps that demonstrate to the junta that its actions have a cost and it cannot repress the population of Myanmar with impunity. Our designations have already undermined the credibility of the military junta and its governing body, the State Administration Council. They have reduced their access to key revenue streams. We are also considering further possible designations that would meet our objective of targeting the military's revenue streams—which I know interests several noble Lords and has been raised before—while mitigating risk to the wider population.

In conclusion, the UK considers the recent actions of the military junta and the Myanmar security forces to be, frankly, abhorrent. They have undermined democracy, brutally repressed protests, arbitrarily detained thousands and, tragically, killed hundreds of innocent people. The regulations expand our powers to impose sanctions in response. They demonstrate that we will not accept such egregious violations of human rights. They enable us to stand with our international partners and, most importantly, with the people of Myanmar in working towards what we hope will be a peaceful and prosperous return to a democratic future for the country. I beg to move.

6.13 pm

Baroness Goudie (Lab) [V]: My Lords, the Myanmar sanctions regulations—81 regulations and four schedules—are welcome and necessary. I thank the Minister for his opening speech and reassurances, but they will be of limited utility if they are not vigorously and robustly enforced. The pressure on the Myanmar military must be maintained, and I am pleased to hear about trying to stop the sale of weapons and all that goes with that. Which countries have signed up to not give weapons? It is also important that there should be transparency on this issue.

The Government should commit to reveal the assets that are frozen. It is imperative that we know that and the sanctions on individuals, because we know that members of the press who come from outside the country are now being imprisoned, tortured and subjected to secret trials. They are unable to be in touch with lawyers, or their families. We know that the local media are forbidden to use certain language. I am not sure why this junta is so afraid if it believes what it says about the world knowing what it is up to.

We know this is bad. They are depriving children of basic education and health. Further, there is the whole issue of women being murdered in the streets and in their homes. We have to be much firmer with our colleagues on the whole question of weapons and on human rights. I am very pleased with what the Minister has said to reassure us, but there is still much more to be done.

6.15 pm

Baroness D'Souza (CB) [V]: My Lords, it seems fitting to focus on Myanmar today, the first day of Aung San Suu Kyi's trial. The new regulations are extremely welcome, in that they are both comprehensive and stringent. The monitoring mechanisms set out in the regulations also appear to be circumvention-proof.

The generals who currently rule Myanmar appear impervious to international condemnation and even to the proposed severe sanctions imposed by the USA and France. It is therefore critical that external pressure be increased and sustained. The regulations would undoubtedly add to that pressure, but are there additional actions that the UK Government might take?

The UN Security Council is unlikely to be able to make any stronger condemnation than it already has, due to vetoes from China and Russia. This should not exclude other nations from adhering to the UN obligations under the responsibility to protect. The principles of R2P, accepted the world over at the UN General Assembly at 2005, make it clear that atrocities committed within Myanmar's borders are not just a matter of internal business but the responsibility of all of us.

Concerted action by ASEAN states in the region to impose travel sanctions and be more vocal in their condemnation of the Tatmadaw regime would be welcome. Focus could also be given to those nations that are either unwilling or unable to monitor sufficiently the provision of resources that undermine democracy and contribute to the continued and severe repression of ethnic minorities in Myanmar as well as of peaceful citizens. What is the outcome of ASEAN's recent discussion on the possibility of suspending Myanmar, an exclusion that would surely have a very marked effect?

It is clear that increased support is being provided to Myanmar by China and to some extent by Russia. Does the FCDO estimate that that support will in turn weaken the sanctions imposed by the UK and other nations?

The forthcoming G7 meeting, to which the Minister has referred, which will be hosted by the UK, is an opportune time to solicit international agreements and further action against Myanmar. Concerted and effective action to strengthen sanctions would have real impact on the regime's behaviour. Furthermore, the comprehensive list of sanctioned materials in these regulations might form the basis of an internationally co-ordinated list of prohibited items.

Although the chances of the Myanmar crimes being referred to the International Criminal Court by the UN Security Council under the Rome statute are extremely slim, is the UK prepared to detain and try designated persons who may leave themselves open to arrest when travelling under the universal jurisdiction banner?

I have two further areas on which I would be most grateful to have the Minister's answer. First, I understand that the impact of the new sanctions on UK businesses is considered to be minimal, and thus an annual review and report to Parliament is deemed unnecessary. What kind of estimate will be carried out of the impact of the sanctions, once enforced, on Myanmar itself? As I have said, there are comprehensive mechanisms to avoid circumvention of such sanctions, but inevitably loopholes will be there. Is the widely dispersed and hidden wealth of senior generals known and accounted for? It would be useful if the Minister could provide some idea of the actual cost to the regime in Myanmar when the sanctions are fully implemented.

Secondly, it is clear that humanitarian organisations are exempt from any of the sanctions set out in the regulations. Nevertheless, some international organisations work in extremely difficult areas—notably, the ethnic regions and among minorities including the Rohingya, the Shan, the Karen and the Mon—and are necessarily involved in providing resources such as food to communities that themselves contain armed militia, albeit working against the Tatmadaw machine. Is there any ambiguity that could limit the resources and the work of those humanitarian bodies? With all that said, I warmly welcome the regulations and thank the Minister.

6.19 pm

Lord Garnier (Con): My Lords, I begin by thanking my noble friend for opening the debate so clearly and with such conviction. I also refer to my interests in the register and, in particular, to my practice at the Bar involving cases to do with international human rights and sanctions law, as well as my recent appointment to the Taskforce on a Transatlantic Response to Illicit Finance, launched by the Royal United Services Institute only today.

These regulations are further evidence of a much-needed new approach to how the United Kingdom deals with regimes abroad whose activities offend the most basic of human rights and rule of law obligations. In permitting the Government to designate particular individuals, as opposed to countries or Governments, and to have a direct impact on their personal finances and ability to travel, they will have a direct effect on the people who lead the Governments or regimes through which and in whose name the abusive and criminal behaviour is carried out.

These regulations also reflect what the United States is doing. The Department of the Treasury's Office of Foreign Assets Control, or OFAC, is adding regulations to implement a Burma-related executive order introduced on 10 February 2021. OFAC intends to supplement these regulations with a more comprehensive set, which may include additional interpretive and definitional guidance, general licences, and other regulatory provisions.

Clearly, sanctions regimes work better if conducted multilaterally and not just by one country, no matter if that one country is the United States, but it would have been unthinkable to do nothing in the face of the widespread evidence of serious human rights violations perpetrated by the Myanmar security forces following the recent military coup. Prior to the coup in February, the UN independent international fact-finding mission had established consistent patterns of serious human rights violations and abuses in Kachin, Rakhine and Shan states and attributed responsibility to the Myanmar security forces, particularly the military. Atrocities committed by the Myanmar security forces include systematic burning of Rohingya villages, massacre, torture, arbitrary detention and targeted sexual violence.

These regulations give the Government the authority to designate particular individuals and to subject them to the restrictions listed in them; they do not identify the designated people. The sooner that the Government put into the public domain the names of the generals or other government leaders in Myanmar who have been found to have been responsible for the human rights and other abuses, the more effective the sanctions will be. I hope that my noble friend will shortly list the individuals caught by these sanctions so that the people of Myanmar, as well as those outside it, know what we have done and against whom the sanctions will bite. It would also be useful to specify the targeted assets and their value so that we can all see that these people are not only murderers and torturers but kleptocrats as well.

Myanmar is a relatively small country, and its leaders are an easy target. Hitting its generals may cause them some inconvenience—although, like the noble Baroness, Lady D'Souza, I should be interested to know whether any of them actually has assets or bank accounts in London. However, until China and Russia and a number of other larger countries are persuaded that supporting corrupt and cruel anti-democratic kleptocracies in Asia, eastern Europe, the Middle East or Africa is not good for their economies or the personal fortunes of their leaders, we will make very little progress, welcome as this small step may be. While congratulating the Government on these regulations, I therefore encourage them to do more.

6.24 pm

Baroness Finlay of Llandaff (CB): My Lords, I welcome this debate and, like others, fear that for many in Myanmar this comes too late; they have been slaughtered by the junta. Along with the noble and learned Lord, Lord Garnier, I welcome the clear speech from the Minister.

I recall hearing Aung San Suu Kyi when she spoke to both our Houses here in Westminster Hall on 21 June 2012, as the first citizen of Asia with a long history of courage and resistance to a regime. Not one of us would have believed we would now be seeing the way that events have unfolded. We heard then of the history of unimaginable brutality in that country and of fear running through the veins of every citizen in Myanmar. We had cautious optimism then that under her leadership the people of Burma would be released from its history of violence.

[Baroness Finlay of Llandaff]

Alas, that was not to be. Despite a landslide victory in the general election on 8 November 2020, the military-backed Union Solidarity and Development Party rejected the results and, as has been said, on 1 February this year the coup happened with an imposed state of emergency. Since then, the brutality of the Tatmadaw has known no bounds. To do nothing and say nothing would be to endorse its actions.

The Minister has outlined much of what we know and described the need for sanctions targeted on the military regime. I suggest that these regulations need strengthening and that the complex politics of the region—it has close links with its neighbouring countries—needs clarification to best target the sanctions against Myanmar and particularly the military regime.

Anyone protesting, calling for the democracy that had begun to emerge a few years earlier, is a target for the regime. Medical professionals have been systematically targeted. Unable to treat patients in hospitals, they are trying to provide care in makeshift clinics, despite the threat to their own lives in trying to help others. Healthcare workers have been killed, and the regime is in breach of the First Geneva Convention relating to medical neutrality in conflict. In Yangon province alone, at least 100 medical students have been arbitrarily arrested. This is also a gross violation of the International Covenant on Economic, Social and Cultural Rights, which was ratified by Myanmar in 2017.

Despite the internet being closed down, reports have come out from Myanmar of people who are listed on the television then being taken from their homes at night, and the following morning their mutilated bodies are returned to their families. They have undergone torture. Some have been split open and their bodies roughly sewn closed, and the family is instructed to cremate them immediately. The poet Khet Thi and his wife were both arrested. When she was told to go to the hospital the following day, she found that his body had been split open and his internal organs were missing. There are reports of young protesters in the streets being shot in the head and then, groaning and wounded, thrown into the back of army trucks, never to be seen alive again. Small children have been shot, some in their own homes.

According to witnesses to the Foreign Affairs Committee's Myanmar crisis inquiry, 52% of the military hardware is supplied to the military regime by China, and the remainder mostly by India and Russia. As Britain holds the presidencies of both the G7 and the United Nations Security Council, as well as having a close relationship with Association of Southeast Asian Nations member states and others in the region, I ask the Government how we are using the leverage of these important positions to cut off the financial incentives to the junta's regime of intimidation and terror.

6.28 pm

Lord Bruce of Bennachie (LD) [V]: My Lords, I thank the speakers who have preceded me for their contributions, all of which have been important, distinctive and supportive of what the Government are doing. The return of military dictatorship to Myanmar fills me with sadness and despair. So much hope that developed under democracy has been trampled in the dust, and violence and loss of life are widespread.

I have visited Myanmar several times, starting with a visit to refugee camps on the Thai-Burmese border with the International Development Committee in 2007, when we also met representatives of exiled Myanmar activists in Bangkok. That was when the military was in full control. We learned then of the horrific atrocities committed by the army against its own citizens, including the killing of parents and children in front of each other, rape and the most brutal and degrading of sexual assaults, and severe deprivation, illness and starvation. The military knows no bounds in its depravity.

Subsequent visits over the following 10 years coincided with the transition from military to democratic rule. I went with the International Development Committee and with a cross-party visit organised by the then Speaker of the House of Commons, John Bercow, who has been a long-standing campaigner for democracy and the end of human rights abuses in Myanmar. Subsequent visits were with the Westminster Foundation for Democracy to mentor parliamentary committees, and to look at development programmes. I met Aung San Suu Kyi—more than once—as well as Shwe Mann and other leading political figures.

Myanmar is complicated, and the building of democratic values has proved bumpy. Around half the population are ethnic Burmese living mostly in the centre of the country, surrounded by provinces populated by a number of ethnic minorities. This has led to a state of almost permanent conflict and civil war, which the armed forces use as justification for their intervention and control, but in return armed ethnic groups have ramped up the conflict.

The determination of young people and ousted politicians to secure their future after the current coup could see the country slide into an even more volatile and violent civil war. The peace process has made little progress and, while political reform along federal lines has been talked about, it has never been actioned.

Daw Suu carries her father's name but, although adored by most of the Burmese, she is not an accomplished politician. She shares the prejudice that most ethnic Burmese have against Muslims, and she has been reluctant to stand up for one Burmese citizenship for all. I witnessed members of her party joining in criticisms of Rohingya Muslims in Rakhine province and refusing to recognise them other than as Bengalis. I welcome the recent calls for the Rohingya to be asked to join in the resistance, but nevertheless the divisions are deep and bitter.

It was suggested that Aung San Suu Kyi was reluctant to press forward with reform out of fear of the military's reaction. Some of her own MPs said she was distant and did not engage with them. Some may have had personal ambitions but most—certainly the ones I met—simply felt that the leadership needed to be broader than just "the lady". Now the generals have reacted anyway, looking negatively to their poor showing at the recent elections and the NDF's increased support, claiming, with no credibility, fraud.

It is not clear where this will end up. There were many people I had the privilege of meeting who were working to build a fairer and more inclusive society

across Myanmar. Many were experienced people excluded from their professions, and many spent years in exile before returning. Throughout the period of military rule the UK remained engaged with the country, providing basic healthcare and education, of which the Tatmadaw rules deprive their own people. I hope, given the cuts to the aid budget, that we will not abandon the poor people of Myanmar, who will be hit by sanctions.

It is known that the military controls, and milks for its own benefit, most of the country's economy. So how, if at all, can it be persuaded that it is in its long-term interests to turn away from its brutal, ruthless dictatorship? How can we ensure that the top brass suffer enough to think again? How can we protect the poor and vulnerable? Is it not correct, as the noble and learned Lord, Lord Garnier, suggested, that we have to name, shame and pursue people who are identified as the perpetrators of these appalling atrocities and abuses?

How can we engage Myanmar's neighbours to show support for the people rather than giving comfort to the leaders and helping circumvent the impact of sanctions? Instability in Myanmar has seen refugees stream into Bangladesh, Thailand and Indonesia, adding to pressures there. Is there common cause to bring Myanmar back from the brink?

It was thought that the military allowed civilian rule because it was weakened by the impact of Cyclone Nargis in 2008 and believed that its own power and wealth would benefit from opening up the economy to tourism and investment. It never let go, of course, but what now makes it think that choking the country down is its better option?

These sanctions are welcome, appropriate and targeted but they will not be enough without sustained international action. There will be a long period of hurt, hardship and unrest—and much under-the-counter dealing will be needed—before Burma and its people can be brought back from this appalling, anarchic, brutal chaos, which sanctions may be aimed at stopping but by themselves cannot achieve. I welcome what the Government are doing but I agree with the noble and learned Lord, Lord Garnier, that much more needs to be done and by many more countries.

6.35 pm

Lord Collins of Highbury (Lab): My Lords, it is vital that we get the sanctions' legal framework right so that as a country we can act with speed against those who seek to repress the population of Myanmar and who break international law. As the noble and learned Lord, Lord Garnier, said, it is important that we act in concert with our allies; for sanctions to be effective, they must be internationally backed.

Recent events in Myanmar have been absolutely appalling and devastating, with more than 800 deaths of protestors and other crimes against humanity that were highlighted by the noble Baroness, Lady Finlay, and the noble Lord, Lord Bruce. Aung San Suu Kyi's failure to stand up for the Rohingya people in the face of the military has been deeply troubling, but the fact remains that her party secured a landslide victory in the November election and the army's claims of voter fraud are utterly spurious. The military coup is a flagrant breach of the constitution of Myanmar, and the barbaric killing of protestors is a scar on the conscience of the world.

I welcome the fact that the Government are seeking to make the scope of sanctions less restrictive than under the previous legislation. However, the sanctioning of Myanmar officials and military-owned companies has been too slow across the board. For example, the sanctioning of Myanma Economic Holdings Limited and Myanmar Economic Corporation did not come in until after the coup on 1 February, despite the appalling persecution of the Rohingya.

I draw attention to the leadership shown by Gambia in taking Myanmar to the International Court of Justice on allegations of genocide. The wider response from the international community, including, unfortunately, the United Kingdom Government, has been slow. The Minister in the other place, Nigel Adams, said that the Government

"have been clear about our support for the ICJ process."

He also confirmed that the UK had

"provided funding to enable Rohingya citizens to attend the hearings in December 2019."

and that the Government were

"monitoring developments closely, and will consider the legal arguments to establish whether a UK intervention would add value."—[*Official Report*, Commons, Committee on the Myanmar (Sanctions) Regulations 2021, 27/5/21; cols. 7-8.]

What other practical support are we giving Gambia in support of the case? Precisely what are the disadvantages of the UK joining the case now? Are we not sending the wrong message by delay? The military has been emboldened by the tacit support that it has received from China; the Chinese Government simply noted the 1 February coup without condemning it, while the main state news agency described the coup as merely a "cabinet reshuffle".

In considering further sanctions, will the Minister's department work with NGOs, such as Burma Campaign UK and Justice for Myanmar, on getting the designations right? Clear moves to sanction military companies will be much more effective than simply sanctioning individuals in government. The Government should also use their international influence to seek to extend the arms embargo—and I welcome what the Minister said. Despite Russia and China, we must still seek to build the broadest possible international coalition.

Although I note that under the Vienna convention, the appointment by foreign states of an interim chargé d'affaires does not require UK approval, I am pleased that the Minister commended the Myanmar ambassador, Kyaw Zwar Minn, for his bravery on standing up for democracy and welcomed the strong condemnation of the bullying behaviour of the junta towards him. It is important that he is not only offered but given significant support, and I hope that the Minister will be able to confirm that this afternoon.

As the noble Baroness, Lady D'Souza, said, when the moment is right the UK should publicly declare that it is time to refer Burmese officials to the ICC via the United Nations and call on other countries to follow suit. Just because Russia and China can block

[Lord Collins of Highbury]
the referral in the UN Security Council does not mean that the United Kingdom should be prevented from doing what is right.

Nigel Adams also said that the UK works closely with our international partners on Myanmar and we are in regular contact with ASEAN partners. He welcomed the five points that came out following their recent leaders' meeting. Can the Minister give us further details of co-operation and action in the region?

Finally, it would be remiss of me not to mention the shocking cuts to aid supporting the Rohingya refugees in Bangladesh. The £27.6 million announced amounts to a 42% cut in aid to the refugees compared with what the Government contributed in October 2020. The coup makes it impossible for the Rohingya to return. The fact that the Government are cutting aid at this moment is an absolute disgrace.

6.41 pm

Lord Ahmad of Wimbledon (Con): My Lords, I thank all noble Lords for their very insightful contributions and their support for the Government's approach to an increasingly challenging situation. We heard from my noble and learned friend Lord Garnier and the noble Lord, Lord Bruce, about the hopes and aspirations of the people of Myanmar. Those who visited there saw rays of hope following the election of the first civilian Government under the stewardship of Aung San Suu Kyi. Indeed, in my previous capacity as Aviation Minister I remember being one of the first Ministers to go there after the election had taken place. The real challenge I determined was the lack of ability to govern. Basic training was required on government functions such as education, Treasury, and so on and so forth. Nevertheless, we have recently seen a decline in the political space and, ultimately, the coup. I listened very carefully to the suggestions, as well as the support, that various noble Lords made on how we can further strengthen our position in this respect.

As I set out in my opening speech, the regulations give us real power to impose sanctions with real impact on individuals and entities, complementing our diplomatic and humanitarian responses to the coup. They ensure that we target not only members of the Myanmar security forces but civilian members of the junta and the economic interests that fund their activities without adversely affecting humanitarian operations. They also allow us to demonstrate that the UK will not stand by in the face of the junta's unacceptable behaviour, recognising, as the noble Baroness, Lady D'Souza, reminded us, our important responsibility to protect something that is propagated by the UN. We are ready and willing to act as a force for good in the world and will stand by those who believe in democracy.

The noble Lord, Lord Collins, mentioned the ICJ case. The Government's position, as given by my honourable friend in the other place, has not changed, but I will share a bit more detail on the ICJ referral, which I have looked at very closely. There are specific processes in the ICJ referral that the Gambia has made, including the response required from Myanmar, as I have mentioned before in your Lordships' House. We will monitor the responses and the legal arguments once they are made available to establish where the UK's intervention can add maximum impact and value, but I hear what noble Lords have said. I reassure them that we continue to support the action being taken at the ICJ.

The noble Lord, Lord Collins, asked specifically about the ICC. This is something that we have often tested through channels. To go back in recent history, from 2017 to where we are today, we have seen movement at the UN Security Council under our penholder capacity, particularly on the issue of the Rohingya, whereas previously a public statement of any kind on Myanmar, but specifically on the plight of the Rohingya community, was subsequently blocked. I heard what the noble Lord said and we will of course continue to work very closely with international partners—we are great supporters of the ICC—to see how best we can act and hold those perpetrators responsible.

The noble Lord, Lord Collins, also rightly raised various issues about working with civil society. As I said in my opening remarks, we believe that is an important contribution. He specifically mentioned NGOs such as Burma Campaign UK and Justice for Myanmar, so we can get the designations right, as he rightly said. I assure the noble Lord that our officials are engaging directly with such civil society stakeholders, including Burma Campaign UK and Justice for Myanmar, which provide valuable insight on the ground into how we can take forward a number of these regulations.

The noble Baroness, Lady D'Souza, and the noble Lord, Lord Bruce, highlighted once again the importance of carefully ensuring the targeted effect of our sanctions to minimise any unintended impact. I alluded to this in my opening remarks but I reassure the noble Baroness and the noble Lord that the licensing purpose within the context of these regulations ensures that humanitarian activity, primarily in Myanmar, is not hindered by sanctions and that the poorest and most vulnerable in Myanmar are not unintentionally affected.

The noble Baroness, Lady D'Souza, again asked about various levels of tests of controlled items of military goods et cetera. The broad use of items such as supplies is agreed through a range of regimes and is regularly reviewed. I assure the noble Baroness that we keep a very firm watch on the issue and the tests that apply to controlled items.

The noble Baroness, Lady Goudie, asked specifically about transparency, as did my noble and learned friend Lord Garnier. I will just give some context to that. Following the coup, the United Kingdom laid new Myanmar sanction regulations to adapt to the changing context and to provide us with the greater powers that I highlighted earlier to target those involved in undermining democracy and repressing the civilian population. The new designation criteria provide expansive powers to target individuals and entities who have been involved in or supported activities, including the commission of serious human rights violations.

My noble and learned friend Lord Garnier asked specifically about frozen assets and the disclosure of information. I have a few specifics on that. The disclosure of information on frozen assets is limited to certain bodies such as financial institutions to disclose information

directly to Governments and for compliance purposes. I hear what my noble and learned friend says and, as he will be aware, our obligations under SAMLA require us to provide details of those who have been sanctioned and the steps that we have taken in this respect.

Since the coup, under the Burma sanctions regime we have now remade Myanmar sanctions applying to nine individuals, including the commander-in-chief, who is also sanctioned under the global human rights sanctions regime—it is a double sanction. As the noble Lord, Lord Collins, mentioned, under the global human rights sanctions regime two further entities have now also been sanctioned: Myanmar Economic Holdings Ltd and the Myanmar Economic Corporation. I mentioned the Myanmar Gems Enterprise in my opening remarks.

The noble Lord, Lord Collins, asked about the delay that may have occurred in our applying those sanctions to institutions. I assure him that they were taken once we had established the legal basis of any subsequent challenge that might take place. As he again acknowledged, he knows I strongly favour co-ordinated action with other key partners to make sure that the sanctions are most effective, as do my colleagues in the FCDO.

A number of noble Lords raised the international arms embargo and the influence that the UK can bring. The UK is a long-standing supporter of a UN embargo on Myanmar. We are clear that countries should not sell arms to the Myanmar military. In this respect, the UK played a key role in securing and strengthening an EU embargo on Myanmar following the 2017 Rohingya crisis. Since we have left the EU and it is after the end of the transition period, we have transferred this into UK law. I assure noble Lords that that UK will continue to explore all avenues to resolve this crisis and I assure the noble Baroness, Lady D'Souza, that we are keeping this very much as a live issue on the UN Security Council's agenda. It was the UK's efforts that led to the council releasing a strong statement expressing specific concern at the coup.

The noble Lord, Lord Collins, my noble and learned friend Lord Garnier and the noble Baroness, Lady D'Souza, raised the importance of co-ordination with international partners. We have worked hard to co-ordinate our designations with partners, including, as I am sure noble Lords will acknowledge, two joint announcements with Canada and two with the US.

The noble Baroness, Lady Goudie, asked about the effectiveness of US sanctions in constraining military actions, travel and business interests. It is our view that co-ordinated international sanctions on the military and their business interests have raised the cost of their actions and limited their ability to conduct business with the UK and the US. Sanctions have also ensured that prospective companies looking to invest in Myanmar avoid investments that benefit the junta directly and Myanmar security forces more broadly.

Obviously we will continue to work with international partners. The noble Baronesses, Lady D'Souza and Lady Finlay, gave us very detailed insights into the situation on the ground. I noted very carefully the concerns of the noble Baroness, Lady Finlay, about the reports that are increasingly coming out of Myanmar about issues of organ harvesting and torture. I am sure that I speak for all noble Lords when I say we strongly condemn the widespread use of torture by Myanmar security forces, including the horrific reports that we are getting of sexual violence. In my capacity as the PM's special representative on PSVI, that is an area that I am looking at very carefully. I assure the noble Baroness and indeed all noble Lords that we will continue to call for those responsible for violations and abuses of international human rights law to be held accountable. That is illustrated in the language of the G7 communique of 5 May.

We are working very closely with ASEAN partners on the five-point consensus that has been agreed with ASEAN. We hope to secure strategic dialogue status with ASEAN later this year, which will allow us to further strengthen our support. I assure noble Lords in my capacity as Minister for South Asia that we work very closely with key partners, particularly on ensuring support for Bangladesh in that respect.

I thank all noble Lords for their contributions to today's valuable debate. I value our debates, specifically on sanctions, as well as the ability to share thoughts, insights and future thinking with noble Lords outside the Chamber and the formalities of our proceedings. I will continue to engage with noble Lords, who bring great insight and expertise to the discussions that we have.

The situation on the ground, as has been described by all noble Lords who have participated in this debate, once again illustrates the vulnerability of democracies around the world, best illustrated by the fact that today, as the noble Baroness, Lady D'Souza reminded us, is another day of a notable trial in Myanmar of Aung San Suu Kyi. She brought great hope but unfortunately her own lack of recognition of the situation, particularly that of the Rohingya, was testament to the strength of the military and the coercion that it continues to exert on all democratic institutions, individuals and organisations within Myanmar. That said, we will work with international partners to strengthen the cause and we hope, through sanctions and indeed other support that we can give, to restore democracy to Myanmar. With that, and once again thanking noble Lords, I beg to move.

Motion agreed.

Committee adjourned at 6.53 pm.